SENATE—*Wednesday, April 20, 1994*

(Legislative day of Monday, April 11, 1994)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable RUSSELL D. FEINGOLD, a Senator from the State of Wisconsin.

The PRESIDING OFFICER. Today's prayer will be offered by guest Chaplain, Rabbi Dena A. Feingold of Beth Hillel Temple, Kenosha, WI, who is also the sister of the junior Senator from Wisconsin.

PRAYER

Rabbi Dena A. Feingold of Beth Hillel Temple, Kenosha, WI, offered the following prayer.

Let us pray:

Source of Wisdom, Well of Justice, Fountain of Goodness and of Peace, we praise You for pouring Your spirit upon humanity as we struggle feebly to fashion our society into the kind of world You have envisioned. We cherish Your guidance as we strive to bring peace, harmony, and equity to this world in which we are Your partners.

As these elected officials begin another day of deliberation in the U.S. Senate, we pray that Your presence may dwell among them. Enable them to discern and to acquire but a minute portion of Your wisdom and compassion, Your knowledge of what is just and right, as they carry out the awesome task of governing our great Nation. Grant them insight and endurance as they consider the weighty issues facing our country. Endow them with deep concern for one another, for their constituents, for the people of this Nation and indeed of the entire world. Give them courage to take difficult stands and to ask the hard questions which must be asked in order to bring wholeness to our broken world.

With grateful hearts do we stand before You, Framer and Fashioner of all that is right and just, for the privilege of living in this land of freedom where the Spirit of Goodness is felt keenly by so many. Eternal Power of the Universe, Author of Freedom, to You we offer thanks and praise. And let us say: Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 20, 1994.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable RUSSELL D. FEINGOLD, a Senator from the State of Wisconsin, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. FEINGOLD thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10 a.m., with Senators permitted to speak therein for up to 5 minutes each.

The Senator from Illinois [Ms. MOSELEY-BRAUN] is to be recognized for up to 15 minutes.

The Chair, in his capacity as a Senator from Wisconsin, suggests the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PRESENTATION OF HADDAWAY MEDAL FOR ACHIEVEMENT IN AVIATION TO LT. GEN. BENJAMIN O. DAVIS, JR.

Mrs. HUTCHISON. Mr. President, this morning I would like to pay tribute to Lt. Gen. Benjamin O. Davis, Jr.

Mr. President, as chairman of the board of the Frontiers of Flight Museum in Dallas, and as a member of the Armed Services Committee, I was proud to present today the George Edward Haddaway Medal for Achievement in Aviation to Lt. Gen. Benjamin O. Davis, Jr.

Mr. President, General Davis had an exemplary military career, rising from plebe at West Point to lieutenant general in the Air Force. He won his commission in 1936, but was initially denied entry into the Air Corps because of his race. He served in the infantry until 1940, when President Roosevelt created a black flying unit in Tuskegee, AL. General Davis won his wings and took command of the first black fighter unit in the Army Air Force, the 99th Pursuit Squadron. Although many predicted failure, the 99th fought valiantly in the skies over Sicily and southern Italy in the P-40.

General Davis later commanded the 332d Fighter Group in North Africa with three more all-black fighter squadrons flying P-47s and later P-51s. His units flew more than 15,000 sorties, destroying 111 enemy aircraft, 57 locomotives, and a German naval vessel. Their aerial victories over the enemy—as well as their aggressiveness, teamwork, and courage—silenced their critics. Ninety-five of his pilots won the Distinguished Flying Cross, and more than 800 Air Medals were earned in combat. General Davis himself earned the Distinguished Flying Cross and the Silver Star for heroism.

More than these honors, Mr. President, the record of which General Davis and his men are most proud is that no bomber under their group's escort protection was ever lost to enemy fighters.

After the war, General Davis commanded the all-black 477th composite group in Ohio, combining bombers and fighters. His leadership and the achievements of his men in combat were a powerful factor in President Truman's integration of the Armed Services in 1948. The Air Force made General Davis its first black general officer in 1954, and he served in command positions with the 13th Air Force in the Philippines, the United Nations command in Korea, and strike command in the United States. He retired from active duty in 1970 to become director of public safety for the city of Cleveland.

But a year later, as the world experienced a rash of airline hijackings, General Davis was recalled to Washington to become Director of Civil Aviation Security and then Assistant Secretary of Transportation for Safety and Consumer Affairs.

Mr. President, I was Acting Chairman of the National Transportation Safety Board a few years later, and I know the complexity of the transportation bureaucracy and the airline community. I am especially impressed, therefore, that during his 5-year tenure hijackings in the 50 States dropped to zero.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

For his four decades of selfless Federal service and for visionary leadership of extraordinary high quality, Mr. President, I was proud to award this valiant airman the Haddaway Medal for Achievement in Aviation.

I just want to say that yesterday at the ceremony there were several members of the Tuskegee Airmen, a group of Americans that are as patriotic as I have ever met. General Davis was one of the most impressive people I have ever met, and I was so proud to be able to give the award for the Frontiers of Flight Museum to Gen. Benjamin O. Davis, Jr., a great American.

IN HONOR OF ESTHER RICE, CIVIC LEADER OF LA MARQUE, TX

Mrs. HUTCHISON. Mr. President, I would like to say a few words about a dear friend and neighbor, whose contributions to my hometown of La Marque, TX, as both a good samaritan and civic leader, have been invaluable.

Esther Rice, or "Aunt Esther" as many called her, was loved by many people for her compassionate service to the needy in La Marque and for her inexhaustible generosity. Esther was born January 12, 1913, in Jasper, TX, the daughter of Mitchell and Leila Gandy. She was a resident of La Marque for 35 years. She and her husband, C.V. Rice, founded the Youth Aid Project more than 25 years ago when they discovered that one of Mr. Rice's students would not be able to have a Christmas. In subsequent years, the Rices sustained the program with money they raised at the "Christmas in August" fundraiser, a much-celebrated community event they initiated.

I had the honor last year, with Congressman JACK BROOKS, of appearing with Esther at "Christmas in August." It was a great event, once again, to help needy children and needy elderly people have a Christmas.

Four years ago, Esther added La Marque's senior citizens shut-in's to her Christmas program.

Committed to improving the lives of those around her, Esther was active in a number of neighborhood projects and served on the State health advisory committee. In addition, she wrote a weekly column for the La Marque Times and the Galveston County Daily News.

Her neighbors honored her with many awards over the years, including a Distinguished Service Award from the Galveston Sheriff's Department, an Honorary Attorney General recognition from the State of Texas, and La Marque's Outstanding Woman Award, not once but three times. She was made an admiral in the Texas Navy and was honored by the Texas House of Representatives on her 80th birthday last year. In addition, she was the only "lifetime" member of the La Marque Chamber of Commerce, which named her Citizen of the Year. She was also named Citizen of the Year by the local Lions Club.

None of these awards, however, could thank Esther sufficiently for all of her good work. Her many achievements continue to benefit the community of La Marque, as the memory of her warmth and sense of mission will always touch the hearts of those who knew her. Esther Rice will be missed and remembered with love.

Thank you, Mr. President. I yield the floor.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

BOSNIAN CIVIL WAR

Mr. MCCAIN. Mr. President, today's news accounts reveal that the President now intends to seek wider NATO involvement in the Bosnian civil war. President Clinton has endorsed U.N. Secretary General Boutros Ghali's request for a NATO ultimatum to the Bosnian Serbs threatening wider air strikes to protect all of the Moslem enclaves or so-called safe areas.

I have made no secret of my very grave concerns about such a move. My opposition to last week's limited and unsuccessful use of American air power in Bosnia was, in part, premised on the presumption that it would lead inevitably to our deeper military engagement in that terrible conflict. And if the President succeeds in securing NATO agreement for this more extensive use of air power, I fear that we will become further enmeshed in incremental escalation until such point where we face a choice between deploying American ground troops or withdrawing in abject defeat.

Mr. President, I do not now intend to discuss all my reservations about the administration's ever evolving Bosnia policy. But I do want to express my doubts about public support for this proposed course of action. And I feel very certain that the American people rightfully expect their elected representatives to consider very carefully any decision by the President that places the lives of their sons and daughters at grave risk.

Accordingly, Mr. President, I urge the leaders of the Senate to quickly schedule a debate and vote on a resolution of approval or disapproval for the future use of American force in Bosnia. I make this call not as a supporter of the legal validity of the War Powers Resolution, but as an elected representative who feels strongly that the public is owed Congress' consideration of its views.

There are many strong, compelling arguments on both sides of this issue which, as is apparent to all, is not divided along partisan lines. At a minimum, Congress should be responsible for providing the public with all the dimensions of this difficult argument—something which the administration has utterly failed to do. Should Congress approve the use of force—which I am fairly certain it would—then at least we will have attempted to enlist the support of the public. As any of us who lived through the Vietnam war know, no military action is sustainable without the support of a majority of the American people.

So, I respectfully request that the majority and minority leaders at their earliest convenience discuss scheduling a debate and vote before the United States takes another action toward war.

The PRESIDING OFFICER. The minority leader, the Senator from Kansas.

Mr. DOLE. Mr. President, was leader time reserved this morning?

The PRESIDING OFFICER. That is correct.

Mr. DOLE. I ask that I may use my leader time.

The PRESIDING OFFICER. Without objection, it is so ordered.

BOSNIA

Mr. DOLE. Mr. President, the brutal assault on the 65,000 citizens of the Bosnian city of Gorazde continues today. The hospital was hit once again, as well as an apartment and buildings which house humanitarian workers and refugees. In fact, it is my understanding that 10 patients in the hospital were killed. In addition, thousands of Bosnians remain without shelter vulnerable to Serb snipers and artillery shells. Meanwhile the Bosnian Serbs, in blatant violation of the February NATO ultimatum, stormed an arms depot in Sarajevo and seized antiaircraft guns from U.N. peacekeepers who were guarding the site. The weapons were reportedly returned this morning.

Among the casualties of continued Serbian defiance and aggression in Bosnia, are the credibility of the United Nations, NATO, and finally, the United States. The Bosnian Serbs are challenging the resolve of the international community, as well as that of the United States. And so far, they have been successful.

The Bosnian Serbs' defiant confrontation should come as no surprise. The pinprick strikes executed by NATO in response to a U.N. request for close air support in Gorazde on the 10th and 11th, did not demonstrate toughness,

rather timidity—timidity in the face of a third-rate military led by thugs. The extremely limited nature of the air operation in Gorazde—which reflects the United Nations militarily minimalist approach—was, in effect, an invitation to the Bosnian Serbs to test the United Nations and NATO further.

And so, last weekend, while pledging peace in the pale, Bosnian Serbs began their thrust into Gorazde. But, the United Nations bluffed and waited to respond until it was too late. When, in the course of carrying out a request from the U.N. commander for close air support, a NATO plane was shot down—NATO failed to retaliate or respond in any way. Meanwhile, amidst the confusion and hesitation of last weekend, U.S. leadership could not be found. It was absent.

It is not too late to take measures to halt the slaughter of Gorazde's citizens; it is not too late to take measures to protect the other U.N. declared safe havens; it is not too late to allow the Bosnians to defend themselves by lifting the unjust, illegal arms embargo—unilaterally, if our allies are unwilling to go along.

Although I am discouraged by reports of the desperate situation in Gorazde, I am encouraged by the news that the President has forwarded various options to NATO for a decision. I hope that the President will resume the leadership role he assumed in February and then subsequently abandoned. Yesterday's Washington Post editorial was right on the mark when it stated that the President had positioned himself as, "The pawn of a self-driven international machine." Sending proposals to NATO is not enough. Since the war in Bosnia began there have been plenty of options, but little will to pursue those that involved the use of force. The President's leadership is essential to persuading our allies that tough action must be taken to protect U.N. declared safe havens—in which hundreds of thousands of Bosnians are essentially trapped—and to restore NATO's credibility, which has been seriously damaged.

Mr. President, U.S. leadership is needed to lift the arms embargo against the Bosnians, as well. For 2 years, the Bosnians have suffered widespread death and destruction because they have been unable to adequately defend themselves—all because of an arms embargo that was placed on Yugoslavia—a country that no longer exists. There is no more Yugoslavia.

It is still imposed on Bosnia, an independent nation. It is a member of the United Nations. We do not even give them the right to defend themselves. We, in effect, are siding with the Serbs by insisting that we continue the arms embargo on Bosnia.

The brave forces defending Gorazde had manpower and morale, but could not stop the tanks and mortars with small arms.

I would remind the administration that the Congress is on record in favor of the lifting the arms embargo. The Senate overwhelmingly adopted an amendment I sponsored which called for an immediate and unilateral lifting of the arms embargo. Yesterday the House-Senate conference on the State Department bill adopted the Dole amendment. It is high time that the Clinton administration begin listening to the views of the Congress on this issue—which are strong and clear—rather than just listening to U.N. bureaucrats, like Yasushi Akashi or the British and French—who always have the option of withdrawing their troops if the embargo is lifted.

This embargo, unlike the embargoes against Iraq and Libya, is illegal and unjust. I would like to bring attention to an op-ed in today's New York Times, by Jeane Kirkpatrick—who was our Ambassador to the United Nations during the Reagan administration—and by Morton Abramowitz—who held a number of senior positions in the State Department and is President of the Carnegie endowment. This article makes the legal and moral case for immediately and unilaterally lifting the arms embargo. I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Apr. 20, 1994]

LIFT THE EMBARGO

(By Jeane J. Kirkpatrick and Morton I. Abramowitz)

WASHINGTON.—Just last month, the United States presided at the creation of a new Bosnian Federation. Today, we are presiding at its destruction. Our lack of resolve and loss of credibility make us accomplices to a Serbian conquest, not architects of a better settlement. The peace process begun with hope in Washington is about to go to hell in Gorazde.

In the face of fresh Serbian outrages against civilians and United Nations peacekeepers, President Clinton has steered a neutral course among the "warring parties." The results are morally, politically and militarily indefensible, with disastrous consequences not just for Bosnia but for a stable, democratic Europe and the viability of NATO and the U.N. (Yesterday there were indications that he was reconsidering this course.)

When confronted with the complexities of the war in Bosnia and brazen Serbian violence, the U.S. has simply retreated. It pursues negotiations at any price rather than creating the conditions for a workable peace agreement. Incredibly, we maintain the crippling arms embargo against Bosnia even as we talk of easing the trade embargo against Yugoslavia. Everybody but the Serbs has fallen hostage to the U.S. peace process, because we didn't back it with enough force to convince the Serbs that more war gives them more pain than gain.

For two years, Bosnia has appealed for means to defend itself. But instead, we gave it unenforced U.N. resolutions, unchecked genocide, impotent mediators, lectures on realpolitik, unsafe "safe havens," peacekeepers who can barely protect themselves, and now an unconsummated marriage of force and diplomacy.

Let us drop the pretense that we can do better, or at least that we will. If we are unwilling to give the Bosnian Serbs (and Belgrade) an ultimatum to withdraw from their sieges or endure punishing air bombardment, then NATO and the U.N. should get out of the way and give the Bosnians the arms to fight for their own country and their own lives.

Mr. Clinton, who has halfheartedly supported lifting the arms embargo, recently said it was not clear under international law whether it could be ended unilaterally. It can be. The embargo is inherently illegal and invalid with respect to Bosnia.

The embargo was originally imposed on all of the former Yugoslavia in 1991. But Bosnia is now a U.N. member in its own right, fully entitled to defend itself against aggression under Article 51 of the U.N. Charter.

Neither Bosnia nor anyone else is bound by an embargo that contravenes this fundamental precept of international law. Belgrade certainly has no compunctions about arming the Bosnian Serbs in violation of the embargo. The right to self-defense cannot be superseded by any U.N. resolution unless the Security Council itself undertakes to insure international peace and order, a task it has utterly failed to fulfill in Bosnia.

The embargo is not just illegal. It has protected the Serbs' advantage in heavy weapons. It has enabled the Serbs to conquer 70 percent of sovereign Bosnian territory and drive two million people from their homes. And it flies in the face of U.N. resolutions authorizing "all necessary means" to insure delivery of humanitarian relief and protect safe havens.

If the embargo cannot be removed by the Security Council because of Russia's veto, it must be removed by individual nations, beginning with the United States. Our European allies may balk, but in the end they need to worry more about our deserting them than we need to worry about their deserting us. Also misplaced are fears that unilaterally lifting the arms embargo for Bosnia would lead nations to abrogate the embargoes against Serbia or Iraq. The cases are not analogous. Belgrade and Baghdad are proven aggressors. Their self-defense is not an issue.

A U.S. move to lift the embargo and encourage other countries to do the same would be welcomed by an overwhelming majority in the U.N. Indeed, a majority has gone on record against its validity. And now that Russia's diplomacy has failed with the Serbs, it would save Moscow the added embarrassment of a veto.

Granted, a phased withdrawal of U.N. forces under U.S. air cover and a steady arming of the Bosnians could make matters worse before they get better. But that is a price the Bosnians are willing to pay, and we should be no less willing. It would initially lead to more killing, but the killing has been going on for two years and almost all the dead are innocent Muslims. It would put U.N. forces and humanitarian workers in jeopardy. But they are already in the Serbian cross hairs. Their alternative is to keep standing by, tabulating the carnage and treating the casualties, while CNN records it all in living color.

Humanitarian aid from the West would still be necessary, but the new Bosnian-Croatian Federation would bear the brunt of insuring the delivery of relief. The armed Bosnian forces might suffer some early re-

versals, but the federation will make it easier for us to deliver needed weapons.

Bosnia should be given the chance to work out a better solution than acquiescing to its own destruction. The Bosnian Army has will, discipline and manpower. If we lift the arms embargo now, we give the Bosnians a chance to do more than go down fighting. We given them a lease on life and a basis on which to build a viable peace—a peace that they, not we, will have the means and the duty to keep.

Mr. DOLE. The criticisms of the manner in which the United Nations has operated in Bosnia are justified. The U.N. protection forces seem to have done anything but protection. Time and time again, General Rose has stated that the United Nations is not in Bosnia "to win a war." That is true, but neither are U.N. forces in Bosnia to ensure that the Bosnian Serbs win the war.

That seems to be the strategy. It seems to be the pattern. Whether it is intentional or unintentional, that is precisely what is happening.

The United Nations has failed to enforce U.N. Security Council resolutions, the United Nations has cowered and hesitated in the face of Serbian defiance and threats, and finally the United Nations presence has created an obstacle to the lifting of the arms embargo against the Bosnians.

The flaws of the United Nations and UNPROFOR, the United Nations Protection Forces—I do not know why they have the "pro" in there because that has been no protection—however, do not exonerate the weakness of the United States and the absence of a consistent United States policy toward Bosnia. The administration cannot escape blame for its pretense of helplessness, for overreliance on the diplomatic initiatives of the Europeans and the Russians, and for asserting neutrality in the face of blatant Serbian aggression. All of these failings contributed to the success of Karadzic and Mladic's strategy of conquest and ethnic cleansing.

There is still time for the administration to define a policy toward Bosnia which places the tremendous influence of United States diplomacy and substantial military strength of NATO on the side of the Bosnians—who are the victims of the bloodiest aggression in Europe since the Second World War. If the President acts decisively and with urgency in the coming hours, there is still hope of stopping the carnage in Gorazde. NATO is not in need of the means to act, it is in need of a leader. And it is time for leadership.

COMMEMORATING THE 79TH ANNIVERSARY OF THE ARMENIAN GENOCIDE

Mr. WOFFORD. Mr. President, today marks the 79th anniversary of the Armenian genocide. We commemorate here today the 1½ million Armenian men, women, and children whose lives were taken between 1915 and 1923 by forces of the Ottoman empire, and indeed, the hundreds of thousands slaughtered or forced into exile in the years preceding. Untold thousands suffered exhaustion unto death in work camps, walked into oblivion on death marches, suffered rape and degradation, starvation, torture, mutilation and murder. It was, to recall the words of the American Ambassador, Henry Morganthau, a campaign of race extermination conducted under the pretext of reprisal against rebellion.

This heinous act brought to a virtual end, the 3,000-year-old heritage of the Armenian people of the region. Today, the survivors can be found across the globe, from the cities and towns of Pennsylvania to Europe, and to the cities of the Middle East, and beyond. More than 130,000 Armenian orphans were taken in by the United States, filled with fear and the memories of horror they never forgot.

Mr. President, we have said many times that the world should never forget. However, we have forgotten, and time and time again, the world has witnessed history repeat itself in different places with different peoples, all with the same terrible purpose. The destruction of the Kulaks, Jewish Holocaust, Pol Pot's extermination of millions of Cambodians are but a few that come to mind. Even today, Saddam Hussein attempts to erase the marsh Arabs and Kurds, and the Serbs continue to practice their own form of ethnic cleansing.

It is fitting that today we commemorate the Armenian genocide. However, how even more fitting it would be if we could mark this sad occasion knowing that we had done all that was in our power to put such outrages behind us. How fitting it would be to remember such anniversaries as a thing out of our dark past, rather than as a scourge of our own time, or a foreboding preamble to our children's future.

CSIS HEALTH CARE FORUM

Mr. SIMPSON. Mr. President, today I would like to share some thoughts on my experience of cohosting an educational forum on health care last month with the Center for Strategic and International Studies [CSIS]. CSIS is a very well-known think tank in town that in the past has primarily focused on international and foreign affairs-type issues. I have worked with this marvelous organization on various projects since I entered the Senate in 1978. They worked with me as I became engrossed in immigration reform, and I continue to work with them as a board member for their Strengthening of America Program.

The Strengthening of America Program, cochaired by my friends and colleagues Senators NUNN and DOMENICI is the Center's domestic economic policy research and analysis program. Its mission is to analyze the economic impact of policies, which affect U.S. economic growth. The program launched its health care reform series to educate the public and private sectors about the economic consequences of health care reform.

The health care forum, which I cohosted in Cheyenne, WY, marked the first in a four State health care reform series made possible with grants from the Houston Endowment and Carnegie Corporation of New York. These types of health care forums are so important as we begin the debate over health care reform in Congress. To build a strong stable consensus for any solution to the country's health care dilemma requires—as the first step—clear and open communications between policy leaders and the public. We are just beginning this type of communication and much more needs to be done. That is why I can't speak highly enough about CSIS and its various programs.

The forum I cohosted with Dr. Anthony Smith, Vice President for Strategic Planning, CSIS is an excellent example of reaching out to the public to educate them on various aspects of health care reform. During our forum, we focused on issues relevant to Wyoming and other rural and frontier States. Other forums will focus on issues such as biomedical innovation, risk adjustment, and employer mandates.

During the 4-hour session, a panel of experts from around the United States and an audience from around Wyoming assessed the issues policymakers confront concerning rural and frontier States. Speakers gave presentations on alternative delivery systems for frontier States, physician and hospital perspectives on frontier health care reform, and the role telemedicine might play in solving issues of access and quality.

I was excited to learn that telemedicine, which links physicians and medical equipment via telephone lines to remote areas lacking medical services, could affect health care by drastically increasing access to all types of physicians including a variety of specialists while reducing costs and increasing the quality of medical care. Telemedicine has the potential of bringing a whole new era of medical delivery to Wyoming—especially to our most remote communities.

In addition, we discussed that most existing health care plans fall short for effective reform of frontier areas, and that the President's plan is especially geared toward urban areas rather than for rural areas. This is something that Members from rural and frontier States have been struggling with since we began examining health care reform and the President's bill.

As the health care debate heats up, the CSIS strengthening of America

program will continue to educate the public on health care reform. I am so proud and pleased to be a part of this fine organization, and I wish them well as they continue with their health reform activities. We could never say we accomplished anything during these many months if we left the American public out of this debate. Including the public in the debate is essential if the country is to build a health care system that is affordable and meets the reasonable expectations of most Americans. CSIS is playing a critical role in this education process and I commend them on their endeavors.

NARCOTICS TRAFFICKING, THE KGB—AND CASTRO

Mr. HELMS. Mr. President, most Americans are understandably outraged by reports that Aldrich Ames—a former high-ranking CIA official—sold vital national security information to Russia and the former Soviet Union. Such treasonous activities may very well have cost the lives of many courageous people who helped the United States in the struggle to win the cold war.

We may never know the full extent of the damage to U.S. national security interests Aldrich Ames may have caused. But we can safely assume that one of the vital interests harmed by the Ames espionage is the U.S. ability to stop the flow of illegal drugs into the United States.

Bear in mind: Not only did Ames have access to the most sensitive CIA information concerning Russia and the former Soviet Union—he also had access to some of the most sensitive information concerning the war on drugs. At the time of his arrest, Ames was a top official in the CIA's office of narcotics intelligence.

The possibility that Ames passed sensitive information to the KGB concerning the war on drugs prompted the Wall Street Journal to publish on March 10 an interesting article headed, "The KGB and America's War on Drugs." The article stated what many of us have contended for years—that the KGB used moles like Aldrich Ames to sabotage the U.S. battle against the international narcotics trade.

It will surprise no one that the KGB sought to undermine the U.S. war on drugs. The KGB was institutionally dedicated to the destruction of the United States of America; therefore, the KGB's involvement in narcotics trafficking makes perfectly good sense. Drugs have been an increasingly destructive force in our society for decades, poisoning our youth and fanning the flames of violence in our cities.

Yet, for some reason, Mr. President, the State Department has been less than aggressive in addressing the role that the KGB—and Soviet allies such as Cuba—have played in the tidal wave of illegal narcotics pouring into the United States.

This, I submit, has been a bipartisan folly. As long ago as January 1987, I pleaded with the administration to investigate this matter. Two years later—on July 26, 1989—the Foreign Relations Committee held hearings on Cuba's involvement in narcotics trafficking. To my knowledge, however, a serious investigation was never undertaken despite the pleadings by me and others.

The pattern of ignoring clear evidence that the KGB and Cuba were linked to illegal drugs is reminiscent of the way the bureaucrats stonewalled congressional investigations into Manuel Noriega's activities. Only after pressure from Congress and an indictment by a Miami prosecutor did the State Department address the serious allegations against Manuel Antonio Noriega. Sadly, the bureaucrats have been not one bit more interested in probing the KGB and the Cuban connection with narcotics trafficking. The Wall Street Journal sensibly put it this way: "Rumors in the 1980s about KGB or Cuban involvement in the drug trade were routinely pooh-poohed by State Department and CIA types."

Well, Mr. President, the bureaucrats were forced to face the facts about Manuel Noriega, but I see no evidence that they learned anything regarding KGB and Cuban involvement in drug trafficking.

I confess that I do not know the extent of the KGB's involvement in narcotics trafficking under Boris Yeltsin. I like President Yeltsin; I've met with him every time he has visited Washington. But, the fact remains, as the Aldrich Ames case shows, that Boris Yeltsin has not stopped the KGB from spending untold millions to spy on the United States. This may or may not be entirely his fault. I'm not sure anyone knows how much control President Yeltsin has over the KGB.

But the question begs to be asked, Mr. President: Where is Russia now getting the money to finance its KGB operations—which are as vigorous as ever? The Soviet Union financed some KGB operations with hard currency earned from narcotics trafficking in years past. Russia—with its devastated economy—seems more likely than the Soviets to rely upon narcotics trafficking to pay some intelligence bills. It is certainly to be hoped that the Russians are not siphoning off U.S. foreign aid to pay its KGB bills.

It is well known that the KGB and Cuba did work hand in glove with Colombian drug traffickers, and Fidel Castro and the Soviets got quite a return on their "investments." They helped poison America's youth while raking in millions in profits—some of which, without doubt—went to finance intelligence operations aimed at the United States and our allies.

The established fact that Aldrich Ames was on the KGB's payroll while a top official in the CIA's narcotics intelligence unit—combined with the fact that the KGB has a history of involvement with international narcotics trafficking—underscores the conclusion that there is a serious need to look into the KGB's connection with narcotics trafficking.

But incredibly, Mr. President, the United States Government actually shares narcotics intelligence with Russian allies involved in the drug trade—and, yes, that includes Cuba. The U.S. State Department's "International Narcotics Control Strategy Report" for fiscal year 1993 confirms that the United States Government exchanged law enforcement information with the Cubans. That report does grudgingly admit that Cuba plays a role in the illicit drug trade. And the fiscal year 1994 report—just delivered to Congress—gives a glowing account of Cuba's efforts to combat the drug trade, but admitting that there is little evidence to support or refute Cuba's claim that it neither produces nor consumes illicit drugs.

Mr. President, let us not forget that Cuba is the country that Presidential candidate Clinton called an "island of tyranny." He described Fidel Castro as one of the world's "most ruthless dictators." The State Department routinely certifies Cuba as a state sponsor of terrorism; and it is no secret that Castro has been profiting from the drug trade for decades.

Notwithstanding the tough campaign rhetoric, the Clinton administration has turned a blind eye to Cuba's continued links with narcotics trafficking. At a November 4, 1993 Foreign Relations Committee hearing, I asked Secretary Christopher whether the United States shares intelligence or law enforcement information with Cuba, and the Secretary said "we do share [drug] enforcement information with the Cubans * * *. Cuba occupies a strategic location astride drug routes into the United States." He went on to say that "such exchanges are clearly in the national interests of the United States."

That may be, Mr. President, but the Secretary of State needs to ponder the serious allegations that Fidel Castro has been involved in narcotics trafficking for more than 20 years, charges which must be taken just as seriously as those against Manuel Noriega. It is inexcusable for the administration to ignore allegations against Castro just as past administrations ignored allegations against Noriega.

President Clinton did Fidel Castro a favor by not including Cuba in the list of major illicit narcotics producing and transit countries submitted to Congress on April 1 of this year. The President identified 26 countries as being major narcotics-producing and transit countries. Western Hemisphere nations

on that list include: Brazil, the Bahamas, Belize, Colombia, Ecuador, Guatemala, Jamaica, Mexico, Paraguay, Venezuela, Bolivia, Panama, and Peru.

Mr. President, this is deja vu all over again. The Secretary of State told Congress with a straight face that sharing intelligence with Manual Noriega is in the U.S. national interests. Exchanging narcotics trafficking intelligence with Fidel Castro makes no more sense than sharing intelligence with Noriega. The administration might as well share drug enforcement information with the Colombian drug cartels.

The simple truth is that all of this is not in the best interest of the United States. More likely, Castro uses U.S. intelligence to tip off his business partners and to knock off his competitors. If Castro were serious about the international drug problem—and of course he is not—he is serious about raking in the countless millions in blood money.

If Fidel Castro really wants to be helpful, the first thing he could do would be to hand over to U.S. authorities all of those Cubans who have been indicted for narcotics trafficking. He could shut down the air corridors over Cuba that continue to be used extensively by drug smugglers. He could order the Cuban Navy to seize boats trafficking drugs through Cuban waters. He could crack down on his closest advisors—including his brother—who are profiting from drug trafficking.

But, Mr. President, don't hold your breath until Castro does any of the above. He and his cronies are into the drug trade up to their ears, and the administration knows it. Even the Washington Post reported in February that files and a videotape belonging to slain drug lord Pablo Escobar implicated Raul Castro in narcotics trafficking—Raul Castro, Fidel's brother, and his Minister of Defense. There was plenty of evidence prior to this discovery to indict Raul Castro, but he has yet to be indicted.

Castro's Chief of Staff of the Cuban Navy, Admiral Aldo Santa-Maria has been indicted in the United States. The Cuban Ambassador to Nicaragua has also been indicted. By the way, this criminal also stole a house in Nicaragua from an American citizen with the Sandinista's blessings. Many other top Cuban officials have been indicted in the United States for drug trafficking in the past 10 or 15 years.

And yet, Mr. President, some at the Organization of American States want to welcome Cuba into the club. I cannot imagine that the President will agree to allow this. Cuba was kicked out for good reason, and no thought should be given to allowing Cuba back into the OAS before Cuba is rid of Fidel Castro. Castro and his gang should know that the United States Ambassador to the OAS, Harriet Babbitt, told the Foreign Relations Committee that the United States "strongly opposes Cuba's reinstatement into the OAS."

Despite billions of dollars in foreign aid that the United States is giving Russia, Russia is still spying on us, and still aiding Fidel Castro. On April 1, Secretary Christopher certified that Russia was not giving assistance to Cuba, as required by the Cuban Democracy Act. The Secretary's justification for the certification said that Russia did not make available to Cuba concessional credit. But then the Secretary contradicted himself in the same report by saying that Russia made available to Cuba $380 million in low interest rate loans in 1993.

Russia refuses to rein in her Cuban ally, Mr. President. Russia stands by Fidel Castro, and the reason is simple: Cuba is an important intelligence asset to Russia. The KGB continues to operate an important intelligence listening post in Cuba which allows it to eavesdrop on much of the eastern seaboard of the United States. It wouldn't be surprising if this listening post is funded, at least in part, by drug money. Perhaps Aldrich Ames can shed some light on all of this.

Sharing any kind of intelligence with Fidel Castro is absurd on its face. Castro must be laughing at the State Department all the way to the bank.

Mr. President, I ask unanimous consent that an article from the March 10, 1994, Wall Street Journal be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Mar. 10, 1994]

THE KGB AND AMERICA'S WAR ON DRUGS

(By Mark Almond)

In all the fuss following the arrest of top CIA agent and alleged Moscow mole Aldrich Ames, some key questions have gone unasked. Media attention has focused on Mr. Ames's activities as CIA head of Soviet counterintelligence, where he allegedly betrayed to their deaths some 10 Soviets working for America. But what Mr. Ames was doing after he left this post has been largely ignored.

Aldrich Ames was a key figure in the new American effort to thwart the inflow of narcotics into the U.S. and impede the corrupting influence of the drug barons. If his work in the CIA's operations against drug trafficking was as controlled by KGB agents as his earlier service, then the explosive power of the Ames case doubles its force.

During the late 1980s, the U.S. intelligence community increasingly shifted its emphasis from classic espionage against the Cold War rival to a new role in the war againt drugs and organized crime. (Western European intelligence agencies redeployed their resource, too.) In the happy dawn of the New World Order, George Bush thought the CIA should cooperate with its ex-rivals against common foes: organized crime, terrorism and drug trafficking. Mr. Ames became head of the CIA's narcotics intelligence department for the Black Sea countries in 1990 after his service as counterintelligence chief for Eastern Europe and the Soviet Union.

Yet all the while Mr. Ames was allegedly working for is old KGB handlers.

Could one explanation for America's sorry record in the war on drugs be that its key intelligence was going to the other side? Rumors in the 1980s about KGB or Cuban Involvement in the drug trade were routinely pooh-poohed by State Department and CIA types who could not imagine that their rivals were anything other than sincere champions of another cause. Now that the routine cynicism and corruption of the former Soviet Union is widely acknowledged, it is time to ask whether some of the cash to fund expensive KGB operations might come from the world's most lucrative milk cow—the narcobusiness.

Espionage experts have expressed surprise at the amount of cash the KGB is alleged to have paid Mr. Ames, far more than in most treason-for-money cases, in which the amounts are often amazingly trivial. Fewer questions seem to have been asked about whether the KGB was the only source of Mr. Ames's affluence. It seems reasonable to ask whether his visits to his second wife Maria's native Columbia might have given him access to another source of income in return for information about the CIA's antinarcotics drive.

Another question suggests itself: Did Mr. Ames betray anyone to the KGB in his new posting, as he allegedly did while counterintelligence chief?

Last August, in the former Soviet republic of Georgia, the CIA's Fred Woodruff was shot dead while riding in the car of the chief of the Georgian security service. A terrible accident was the improbable verdict. But a week earlier, Mr. Ames had been in Georgia. In addition to his mission to provide U.S. training to Georgian security forces, Mr. Woodruff was allegedly investigating Georgia's role as a conduit of heroin from other ex-Soviet republics to the West.

Some informed Georgians think that Mr. Woodruff had come to believe that the men Washington had sent him to cooperate with were in fact involved in the heroin shipments. Had Mr. Woodruff reported this, Mr. Ames would have been the first man in the CIA to receive his report.

It is public knowledge in Georgia that the security forces of Edward Shevardnadze's regime are involved in the republic's rampant drug business. So severe has the problem become that even Mr. Shevardnadze recently felt obliged to undergo a heroin test to prove his credibility.

As an ex-KGB general-turned-reformer who returned to his native Georgia, Mr. Shevardnadze ought to be able to help the Clinton administration clear up any connection between Mr. Ames's visit to Georgia last year and the murder of CIA station chief Woodruff. If Mr. Ames was betraying America's war on drugs to the KGB, then the Clinton administration and the West are starting into a deep and dark abyss.

The venality of Aldrich Ames contrasts sharply with the intense, if twisted, ideological treason of a Kim Philby. How many other unhappily salaried Western intelligence officials cooperating with the ex-KGB in the war on drugs have also been tempted by the rich pickings of betrayal in the postideological age?

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the Federal debt stood at $4,565,951,484,411.43 as of the close of business on Tuesday, April 19. Averaged out, every man,

woman, and child in America owes a part of this massive debt, and that per capita share is $17,513.46.

THE 79TH ANNIVERSARY OF ARMENIAN GENOCIDE

Mr. DECONCINI. Mr. President, April 24 will mark the 79th anniversary of the beginning of the tragic Armenian genocide. Beginning in 1915 and continuing until 1923, the Ottoman Empire carried out a planned extermination of the Armenian people. During this period 1.5 million Armenians were killed and 500,000 exiled from the Ottoman Empire.

In 1915, newspaper headlines told of mass starvation and drownings of Armenians. Henry Morganthau, our Ambassador to Armenia at the time, telegraphed the Secretary of State on July 15, 1915, and had this to report:

Deportation of and excesses against peaceful Armenians is increasing and from harrowing reports of eyewitnesses it appears that a campaign of race extermination is in progress under pretext of reprisal against rebellion.

Tragically, no one came to the rescue of the Armenians. Equally tragic is the fact that the Republic of Turkey denies the genocide. I am a strong supporter of Turkey, an important ally and friend of the United States. Just as the United States faces up to our mistreatment of black Americans, native Americans and others, the Turks must face up to the genocide of the Armenians. This genocide was not carried out by the existing government which is a democracy, but by the Ottoman Empire.

We must be able to discuss history openly with our allies. We strengthen our democracy by acknowledging these tragedies. The danger of not facing up to history is demonstrated by the statement Adolf Hitler made during his planning of the Holocaust against the Jews. Hitler said, "Who today speaks of the extermination of the Armenians?"

The Armenian genocide was a terrible tragedy. To look away would be a greater tragedy. That is why on this 79th anniversary of the Armenian genocide we remember not only the Armenians who died in this senseless killing but also the efforts of Armenians and Armenian-Americans who have struggled to pressure the Turks to acknowledge the Armenian genocide.

BUDGET SCOREKEEPING REPORT

Mr. SASSER. Mr. President. I hereby submit to the Senate the Budget Scorekeeping Report prepared by the Congressional Budget Office under section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of section 5 of Senate Concurrent Resolution 32, the first concurrent resolution on the budget for 1986.

This report shows the effects of congressional action on the budget through April 15, 1994. The estimates of budget authority, outlays and revenues, which are consistent with the technical and economic assumptions of the concurrent resolution on the budget (H. Con. Res. 287), show that current level spending is below the budget resolution by $4.8 billion in budget authority and $1.1 billion in outlays. Current level is $0.1 billion above the revenue floor in 1994 and below by $30.3 billion over the 5 years, 1994–98. The current estimate of the deficit for purposes of calculating the maximum deficit amount is $311.7 billion, $1.1 billion below the maximum deficit amount for 1994 of $312.8 billion.

Since the last report, dated April 12, 1994, Congress approved and sent to the President S. 2004, extending loan ineligibility exemption for certain colleges. This action changed the current level of budget authority and outlays.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 19, 1994.

Hon. JIM SASSER,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the 1994 budget and is current through April 15, 1994. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the Concurrent Resolution on the Budget (H. Con. Res. 64). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of Section 5 of S.Con.Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, dated April 11, 1994, Congress approved and sent to the President S. 2004, extending loan ineligibility exemption for certain colleges. This action changed the current level of budget authority and outlays.

Sincerely,

ROBERT D. REISCHAUER,
Director.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, FISCAL YEAR 1994, 103D CONGRESS, 2D SESSION, AS OF CLOSE OF BUSINESS APRIL 15, 1994

[In billions of dollars]

	Budget resolution (H. Con. Res. 64)[1]	Current level[2]	Current level over/ under resolution
ON-BUDGET			
Budget authority	1,223.2	1,218.5	−4.8
Outlays	1,218.1	1,217.1	−1.1
Revenues:			
1994	905.3	905.4	0.1
1994–98	5,153.1	5,122.8	−30.3
Maximum deficit amount	312.8	311.7	−1.1
Debt subject to limit	4,731.9	4,482.2	−249.7
OFF-BUDGET			
Social Security outlays:			
1994	274.8	274.8	(3)
1994–98	1,486.5	1,486.5	(3)
Social Security revenues:			
1994	336.3	335.2	−1.1
1994–98	1,872.0	1,871.4	−0.6

[1] Reflects revised allocation under section 9(g) of H. Con. Res. 64 for the Deficit-Neutral reserve fund.

[2] Current level represents the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[3] Less than $50 million.

Note: Detail may not add due to rounding.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 103D CONGRESS, 2D SESSION, SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1994 AS OF CLOSE OF BUSINESS APRIL 15, 1994

[In millions of dollars]

	Budget authority	Outlays	Revenues
ENACTED IN PREVIOUS SESSIONS			
Revenues			905,429
Permanents and other spending legislation[1]	721,182	694,713	
Appropriation legislation	742,749	758,885	
Offsetting receipts	(237,226)	(237,226)	
Total previously enacted	1,226,705	1,216,372	905,429
ENACTED THIS SESSION			
Emergency supplementary appropriations, fiscal year 1994 (P.L. 103–211)	(2,286)	(248)	
Federal Workforce Restructuring Act (P.L. 103–226)	48	48	
Offsetting receipts	(38)	(38)	
Housing and Community Development Act (P.L. 103–233)	(410)	(410)	
Total enacted this session	(2,686)	(648)	
PENDING SIGNATURE			
Extending loan ineligibility exemption for certain colleges (S. 2004)	5	3	
ENTITLEMENTS AND MANDATORIES			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted[2]	(5,562)	1,326	
Total current level[3,4]	1,218,462	1,217,054	905,429
Total budget resolution	1,223,249	1,218,149	905,349
Amount remaining:			
Under budget resolution	4,787	1,095	
Over budget resolution			80

[1] Includes budget committee estimate of $2.4 billion in outlay savings for FCC spectrum license fees.

[2] Includes changes to baseline estimates of appropriated mandatories due to enactment of Public Law 103–66.

[3] In accordance with the Budget Enforcement Act, the total does not include $14,145 million in budget authority and $9,057 million in outlays in emergency funding.

[4] At the request of Committee staff, current level does not include scoring of section 601 of Public Law 102–391.

Notes: Numbers in parentheses are negative. Detail may not add due to rounding.

JUDGE WILLIAM W. WILKINS, JR., ADDRESSES THE NEED FOR SENTENCING REFORM AT THE STATE LEVEL

Mr. HOLLINGS. Mr. President, Judge William W. Wilkins, Jr., is a member of the Fourth Circuit U.S. Court of Appeals and also serves as chairman of the U.S. Sentencing Commission. In a lengthy and insightful article in the April 17 edition of the Greenville News, he discusses the anticrime legislation now working its way through Congress, and he makes a strong case for better coordination and partnership between the Federal and State Governments.

Specifically, while praising the Federal sentencing framework for its toughness and predictability, Judge Wilkins notes that sentencing guidelines at the State level are in urgent need to reform. He urges that current State parole systems be abolished and

replaced with a truth-in-sentencing system similar to the Federal model. He also advocates uniform and restrictive policies regarding plea bargaining in order to assure more equal treatment.

Mr. President, Judge Wilkins addresses this issue with common sense and genuine wisdom. He is one of our Nation's foremost authorities in the field of sentencing reform. For the benefit of our colleagues, I request unanimous consent that Judge Wilkin's article, "State, Federal criminal justice systems must work in tandem," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

STATE, FEDERAL CRIMINAL JUSTICE SYSTEMS MUST WORK IN TANDEM

(By Judge William W. Wilkins, Jr.)

According to recent opinion polls, crime tops the list of public concerns. Although the Bureau of Justice Statistics reports that crime rates remained stable or declined in the most recent year of measurement (1992), the public perception is that crimes are occurring more frequently and closer to home. Understandably, as public concern about crime grows, there also is increased skepticism about the effectiveness of our criminal justice system.

Responding to these concerns, Congress is soon expected to pass major anti-crime legislation. My hope is that the this bill, as it addresses sentencing policy within our federal court system, will build on the important, demonstrably effective reforms already in place. At the same time, because 95 percent of all crimes committed necessarily are state violations, a truly effective, nationwide crime control strategy requires a coordinated effort between federal and state governments working as partners.

My firm conviction is that the ultimate goal of any criminal justice system should be crime control. For a criminal justice system to maximize crime control, sentences meted out by judges need to be both appropriately tough and fair.

Sentences need to be tough because society, through its criminal justice system, must be allowed to express its moral outrage at criminal conduct.

In addition, sentences must be fair in order for the justice system to earn the respect and support of those it serves, including those who are punished by it. Fairness, in this context, is more than perception. It embodies the specific characteristics of proportionality, evenhandedness and certainty.

Unwarranted disparity in sentencing—the opposite of evenhandedness—breeds disrespect for the law and undermines public confidence. Until a few years ago, unwarranted disparity in sentencing was one of the principal problems that plagued our federal system, and it remains a problem today in most state systems.

Finally, certainty of punishment is essential for a fair and effective crime control system. In fact, crime control research demonstrates that certainty of punishment produces more effective results than severe sentences imposed on a hit-and-miss basis.

A tough but fair criminal justice system is now in place in our federal courts. This new system was created a few years ago after Congress enacted sentencing reform legislation and created the United States Sentencing Commission which issued sentencing guidelines for use in our federal courts. Under this system, offenders convicted of federal crimes are sentenced pursuant to guidelines that structure the federal judge's discretion by requiring that offenders convicted of the same crime, under similar circumstances, with comparable criminal records, are sentenced alike.

Importantly, federal prison sentences are now imposed without the availability of parole. A sentence of five years means five years, ten means ten, and life means life, without parole. Consequently, many of the perceived problems of the criminal justice system—"revolving door" prisons; early release through parole or release of some offenders to make room for more; overly generous "good time" credit; and unduly lenient or unequal sentencing by individual judges—are not present in the federal system.

Will this make a difference to all of us and our families in our homes, places of business and communities? Will we as citizens begin to see the positive results of a federal criminal justice system based on crime control? The answer, I believe, is a qualified "yes."

My answer is qualified because the federal criminal justice system has a limited reach. Under our constitutional system the individual states retain the bulk of "police powers." For example, generally in order for an offense to fall within federal jurisdiction, it must have some connection to interstate or foreign commerce or be committed on federal lands.

Except for a few offenses that simultaneously violate both federal and state law, such as drug trafficking, most offenses fall into one category or the other. Thus, burglary of a residence in Greenville County, robbery of a neighborhood store, a mugging on a city street or the abduction and rape of a customer at a local mall, violate only state law and must be prosecuted in state court.

In fact, violent crimes in general are almost entirely within the exclusive jurisdiction of the states with only one percent involving violations of federal law. Thus, while offenders who commit violent acts that implicate federal law are sentenced to lengthy prison terms without parole under federal sentencing guidelines, our state courts by law must deal with the remaining 99 percent.

This may seem to suggest that the answer to our continuing crime problem is for the federal government to assume a greater share of the law enforcement, prosecution, sentencing and imprisonment efforts. Indeed, Congress appears to be moving in that direction.

Provisions in the proposed crime legislation now being considered by Congress would expand federal criminal jurisdiction to include the use of a firearm in connection with any state drug or violent crime, street gang offenses, drive-by shootings and possession of a firearm by a juvenile.

Whether state offenses should be brought within the jurisdiction of federal courts is ultimately a policy judgment for Congress, taking into account a number of concerns. Even if all of these proposals are adopted, however, most crimes, especially violent crimes, still will—indeed must—be handled in our state courts.

Last year, working at a capacity level that prevented many federal district courts from handling any significant number of civil cases, approximately 42,000 criminal offenders were sentenced in federal courts under the sentencing guidelines. At the same time, state courts in our 50 states processed over one million felony criminal cases. Clearly, even with some resource increases provided in the crime bill, there simply will not be enough federal law enforcement agencies, assistant U.S. attorneys, federal public defenders, federal judges, U.S. probation officers, and federal prison officials to handle any massive shift of criminal prosecutions from state to federal courts.

Nor is such a shift necessarily good policy, for other reasons. Traditionally, the federal law enforcement effort has focused on large-scale and/or sophisticated crimes such as interstate drug conspiracies, money laundering, organized crime, major frauds, terrorism, treason and immigration offenses.

Diverting federal law enforcement resources to directly fight local street crime may prove short-sighted if it results in curtailing crime fighting efforts in those important areas of traditional federal responsibility. Consequently, Congress should move cautiously in expanding federal criminal jurisdiction.

Another current effort by Congress to address the crime problem is to require the imposition of severe penalties on violent recidivists who commit federal offenses. Commonly referred to as a "three-time loser" or "three strikes and you're out" provision, these proposals in the legislation now being considered in Washington would mandate life imprisonment without parole for offenders convicted of a serious violent or under some versions, drug trafficking felony who have two prior violent (or drug trafficking) felony convictions. The concept of this proposed legislation is generally sound.

Realistically, however, enactment of this legislation at the federal level will add little to the total crime control effort. Why? First, a "three-strikes" career offender provision under the federal sentencing guidelines already ensures that offenders convicted of a third violent or drug trafficking crime will be sentenced at or near the statutory maximum. Thus, career offenders are already sentenced to an average of 17.4 years without parole. And, the most dangerous of these offenders now receive actual life sentences or sentences equaling or exceeding life expectancy.

The second reason that federal enactment of the "three-strikes" proposal will not significantly advance crime control is its limited impact on the total population of violent criminals. Using its extensive database, the Sentencing Commission estimates that the "three-strikes" proposal will apply to less than 200 federal offenders each year.

Finally, the proposed "three-strikes" federal statue will apply infrequently to those convicted of crimes of actual personal violence. In fact, according to the Sentencing Commission's analysis of the proposal, it appears likely that 60 percent of the affected offenders will be those convicted of robbing a federally insured bank where no personal injury occurred.

Consequently, as a device to incapacitate for life those who are violent predators, the proposal, unfortunately but realistically, makes a negligible contribution to crime control efforts.

If federalizing traditional state crimes and a federal "three-strikes" proposal are not effective answers to our continuing crime problems, what are? In my view, until the state systems uniformly work in tandem with the federal system, crime control in America will never be fully achieved.

Before my appointment to the federal bench, I worked for many years in our state justice system. Just as the federal system needed comprehensive sentencing reform, so too do many of our states.

So where do we go from here? I suggest that each state should comprehensively re-examine its justice system and ask whether it is designed to achieve crime control. If not, change the system and adopt one that is built around the following essential characteristics:

The system of parole as we know it should be abolished. In its place, a truth-in-sentencing system should be instituted. The sentence imposed in the public courtroom will be the sentence served, less a modest reduction for good behavior while in prison.

Sentences must be based on specific guidelines that are uniformly applied so that similar offenders who commit similar crimes are all fed from the same spoon.

Uniform and restrictive policies regarding plea bargaining should be adopted to minimize unequal treatment.

Sentences should be very tough for violent and repeat offenders.

Meaningful prison alternatives or short prison sentences should be available for first-time nonviolent offenders.

Even these steps by no means will eradicate crime problems whose root causes are complex. While working toward longer range solutions, however, we can and should achieve more effective crime control by implementing sentencing reforms wherever they are needed.

LIERMAN TRIBUTE TO MARY WOODARD LASKER

Mr. HOLLINGS. Mr. President, at last week's gala celebration of the National Eye Institute's 25th anniversary, a high point of the evening was an eloquent tribute by Terry Lierman to the late Mary Woodard Lasker. Terry Lierman, president of Capitol Associates, is a tremendous champion of medical research—a fact that made all the more impressive his salute to Mary Lasker as his mentor and role model.

Of course, Mary Lasker was well known to Members of the Senate going back decades. We remember her lifetime of dedication to medical research; her critical role in the founding of the National Cancer Institute; her passionate advocacy of funding for a whole range of programs at the National Institutes of Health. She was a remarkable woman whose 94 years were lived with an abundance of energy and commitment.

Mr. President, Terry Lierman's remarks are not only a moving tribute, they capture the spirit of Mary Lasker in a special way. I would like to share them with our colleagues, and, indeed, with the American people. Accordingly, I ask unanimous consent that they be reprinted in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

TRIBUTE TO MARY WOODARD LASKER

(By Terry Lierman)

It was Senator Warren Magnuson (my first mentor) that introduced me to Mary Lasker and it was love at first sight. Here was Mary who was born in Watertown, Wisconsin in 1900—I was born 30 miles from there—but a little later. She went to the University of Wisconsin, my alma mater. She basically started the modern NIH, where my first job was, she worked the halls of Congress, that's where I worked. I have followed Mary unconsciously and will consciously follow her in the future too—Chairman Magnuson's favorite phrase was "just tell me what time it is, not how the clock works!" This is one person, Mr. Chairman, who deserves more than just the time!

So allow me to share a few stories with you as a legend is born * * *.

It was Mary that got Senator Magnuson to sponsor, as his first bill in Congress, along with Senator Pepper, something starting the National Cancer Institute.

The few minutes I have here, is like asking an NIH researcher for a 1 page grant application.

Chairman Magnuson, this clock ran beautifully for 93 years, and its long overdue for someone to tell how the clock worked!

Simply, if God created mothers for children—God created Mary Lasker for medical research!

Mary, literally, up to the day of her death 4 weeks ago, kept urging for more effort and faster progress—she had a wonderful sense of urgency—she understood that people were dying and suffering.

Her last passion was the Harkin-Hatfield Research Fund for Medical Research. It was her last call to me and she spoke in a whisper, but her urgency, like always, came through—how was it going; what were the chances; what could she do to help; on and on, always questioning, always pushing for more.

Mary had a wonderful way to put perfect thoughts into words, "words of wisdom according to Mary" should be a primer for all of us—one she used often was "if you want something done, give the other person the credit."

But lets give Mary the credit tonight:

Credit for the 10,000 azaleas she had planted in D.C.;

900 cherry trees around the tidal basin;

1 million daffodils planted in Rock Creek;

Gardens in 20 Blocks of Park Avenue New York;

Lasker Gardens in Central Park;

The landscaped grounds and trees at the United Nations;

Even a flower garden at Oxford in honor of the discovery of penicillin; and

Hundreds of highway planting projects with Lady Bird Johnson along our Nation's highways.

Mary felt very strongly that beauty and color translated to PMA—a positive mental attitude = good health.

That is the easy part to identify what Mary has done, now comes the life sciences—life sciences, Mary was always interested in life.

At NIH sits a gorgeous building and grounds named the "Mary Woodward Lasker Center for Health Research and Education." When I first told her that Senators Kennedy and Hatfield and Speaker O'Neill, Chairman Pepper, were doing it in her honor it was one of the few times I saw her angry. Angry because she said she did not deserve the credit, it was the Congress that deserved the credit. It happened over her protest and she was very, very proud of it—even purchased pictures for the inside and worried that the outside wouldn't have enough flowers.

Go there and walk the interior gardens and you, I will assure you, that you will feel the inspiration of Mary—it was a convent before.

It was Mary Lasker who got her husband Albert, who controlled massive amounts of advertising on radio in the early 40's to get CBS to say the then very taboo word "Cancer" on a program called Fibber, Maggie and Molly. This led to a flood of mail to a fledgling group called the American Cancer Society and Mary hired people to open the mail and count the checks propelling ACS nationwide. She would later use a similar technique but with Eppie Lederer-Ann Landers to get the National Cancer Act passed over the initial objections of President Nixon. Full page ads in major newspapers with 4 inch bold type saying, simply: Mr. Nixon You Can Cure Cancer—it worked!

Mary's greatest dream, was a cancer vaccine. Early on, while she talked, slept and pushed for a cancer vaccine, the scientific community scoffed. Now, with 1 person in the United States dying from cancer every 62 seconds, medical research progress has brought that dream within reach, Mary will be proven right yet again.

Then the list of medical research accomplishments grew rapidly—creation of the Heart, mental health and most of its institutes in the 40's and 50's, 60's—there is a rare NIH program without Mary's stamp on it.

The Lasker Awards in 1948 which have been the American leader in recognizing basic, clinical research and public service.

52 Lasker winners since 1948 have gone on to win Nobel Prizes.

Mary would do anything to get attention not for her awards, but she saw this as a way to promote medical research—awards, press, politics which she viewed very positively as a means of serving the needs of people.

She was very frustrated with scientists who did not want to subject themselves to politics and thought that medical research funding would happen automatically because it was the right thing to do. Mary would say, "it's my money, I have a right to help determine how it is spent."

She was a model citizen. She understood, like Alexandre de Tocqueville stated, that democracy does not work unless those who live in it work for it. A keen lesson for all Americans who do not participate and blindly go down the trail of taking democracy for granted.

We should all know that rights are only ours if we exercise and protect them.

Mary viewed advocacy for medical research as a right of the public and sought it with a passion.

In the 60's she forced, with the intervention of President Johnson, the NIH to get involved in clinical research saying—

"What good does it do to fund medical research if we can't get it used by those who need it."

In the 70's and 80's her passion was education, cancer vaccine development and gene therapy years before it was popular. In fact, it was not all roses. People, scientists, often scoffed at Mary but time and again she was right.

She would say "go to the government for funding. You can raise more there in a day than in a lifetime of trying to raise money privately."

Mary was proud of her championing of the National Eye Institute—she adored and spoke reverently about Lew Wasserman and her seat on the board of Research to Prevent Blindness.

Mary had a vision that few are blessed with and would probably be frustrated with those that mouth prevention today but ignore the importance of research for tomorrow—she said "research is the first link in the chain of prevention."

Like those few people with vision, Mary's eyes were always able to look farther than

they could see. Mary was often heard to say that "I am opposed to heart attacks, and cancer, and strokes the way I am opposed to sin." Her vision gave her the resolve to persuade others to find the cause of disease, not just treat the symptoms.

Mary Lasker had the resources to go to the South of France but elected to stay and fight the good fight.

She stayed focused in the determination to cure and prevent disease and disability.

It was her vision, her life, her energy which will benefit every person in this room before we join Mary.

The last few years in talks with her, she was becoming increasingly frustrated by the country's inability as she said to "dream", she said there are always people who find reasons not to do things and that Washington is made up of "work horses and show horses." Tonights honorees, down to every person, (Former Rep. Frederick B. Rooney, A Edward Maumenee, MD, Lew R. Wasserman and Research to Prevent Blindness, National Eye Institute, Rep. William H. Natcher, Rep. Louis Stokes, Rep. John E. Porter, Sen. Mark O. Hatfield, Sen. Ernest F. Hollings, Sen. Tom Harkin) Mary worked with, supported and was very fond of. Like tonight, she was not partisan, she would help those who would help others—those who would dare to dream about making this place a better one and do something about it.

Mary's one speech that I heard in 18 years, because she shunned the light stated simply—

"The fruits of our labors throughout the years will:

Alleviate pain where there is suffering;

Provide the freedom to live in health so that we can fulfill our promise and quest in the pursuit of happiness and provide hope where none existed before."

If you want to know what Mary's monument looks like—look at the people around you. Deeds for people, not stones, are the true monument of the great.

Her legacy is a living vibrant message of hope to millions afflicted with disease and disability.

Her life will be judged not by her wealth or her love for beauty, but by the beauty and wealth that she instilled in every life she touched through medical research.

Those of us who have met her, seen her beauty and been touched by life, will revel in her memory and be driven by her passion.

The fruits of Mary Lasker's efforts and commitment to improve humankind are all around us; they live in each of us—they will be truly timeless. Our efforts to cure disease and conquer disability will be judged by Mary in our minds and hearts.

A grateful nation owes much to Mary Woodard Lasker—a woman whose mind rebelled against needless suffering and whose heart responded to a worthy cause. Mary showed us that medical research is a living message that we will pass on to our children—for a time that we will not see.

"METRICS: MISMEASURING CONSUMER DEMAND" A VERY BALANCED REVIEW

Mr. PELL. Mr. President, as many of my colleagues know, Mr. President, I have been a long-time proponent of metric conversion by the United States. As I have said before, I strongly believe that the American economy would greatly benefit if the United States were to join the rest of the world.

Presently, the United States is the only industrialized nation in the world that does not use the metric system of measurement. Imagine, Mr. President, what impact this has on our trade with other countries. In fact, the U.S. Department of Commerce has estimated that U.S. exports could increase by as much as 20 percent if the United States were to convert to the metric system.

Unfortunately, Americans have, for some time, seemed apprehensive about making the change from our inch/pound system to the metric system. This tension between the obvious economic benefits and consumer apprehension is one of the biggest hurdles metric proponents face.

An article in the February 1994 issue of Consumer's Research magazine does a fine job of exploring this tension. The article is very interesting and well-balanced. I recommend it to all of my colleagues, regardless of your views on metric conversion.

Mr. President, I ask unanimous consent that the article "Metrics: Mismeasuring Consumer Demand" be printed in the RECORD at the conclusion of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Consumers' Research, Feb. 1994]

METRICS: MISMEASURING CONSUMER DEMAND

(By Michael Chapman)

Is the Department of Justice, the top governmental agency responsible for law enforcement, violating the law? Apparently, yes. The law in question concerns the use of the metric system of weight and measure as enacted by the Metric Conversion Act of 1975 and amended in the Omnibus Trade and Competitiveness Act of 1988. This amendment on metric usage (Public Law 100-418, Section 5164) "declares that the policy of the nation is to designate the metric system as the preferred system of measurement for trade and commerce, and requires such federal agency to use metric units in all or as many of its procurements, grants, and other business-related transactions as is economically feasible by the end of fiscal year 1992." According to a report by the Congressional Research Service at the end of fiscal year 1992, the Justice Department "does not appear to be complying with the [metric usage] law."

The Justice Department is not alone.

The latest information available indicates that no less than 22 of 37 federal agencies have either completely or partially failed to comply with the metric conversion law. These "outlaw" agencies include: Department of Education, Department of Transportation, Federal Trade Commission, U.S. Postal Service, General Services Administration, and the Government Printing Office. Despite these apparent violators of federal law, don't expect the U.S. government to indict itself. Attempts at metric conversion in the private sector never really got off the ground. It is still uncertain whether this attempt at conversion in the public sector will survive, let alone succeed.

METRIC HISTORY LESSON

The attempt to replace the English (or customary) system of weight and measure, which is based on inch/pound/quart measurements, with the metric system, which is decimal-based and uses meters, grams, and liters for measurement, has a long history.

The metric system was born during the French Revolution. In the United States, both Thomas Jefferson and John Quincy Adams advocated, unsuccessfully, metric conversion. By an Act of Congress in 1866, metric usage was legalized in the United States on a voluntary basis. In 1875, along with 17 other nations, the United States signed the Treaty of the Meter. This agreement established the International Bureau of Weights and Measures in Sèvres, France, to provide metric standards of measurement for worldwide use. These standards for length and mass were adopted in the United States in 1893. In 1960 the metric standards were revised. This modernized version of the metric system is known as Le Systeme International d'Unites (International System of Units) or SI. Metrics have been legal on a voluntary basis for more than 100 years; but except in those fields that are metric-dependent—science and trade—widespread metric conversion in the United States has not occurred.

To promote metric conversion in the United States, Congress passed the Metric Conversion Act of 1975. This Act called for a voluntary conversion by individual groups and industries. However, this attempt failed. Americans, by and large, rejected the system. "The switch to metric was perceived as hostile to consumers," said Government Executive in 1990. "The public objected loudly to road signs showing distances in kilometers, to temperatures in Celsius, and to gasoline sold in liters."

In assessing this unsuccessful attempt at metric conversion, G.T. Underwood, former director of the Office of Metric Programs at the Department of Commerce, says: "Arguments about lost export markets got mixed up with the need for metric road signs. The general public resented what seemed an unnecessary social nuisance. Most U.S. firms, seeking not to aggravate U.S. customers, didn't change their products, the ostriches prevailed, and the movement essentially stalled." On a related note, a General Accounting Office (GAO) report in 1978 found: the total cost of metric conversion was indeterminable but substantial, somewhere in the billions-of-dollars range; conversion would result in higher consumer prices and reduced U.S. productivity; U.S. and world trade would not be hampered by a dual system of English and metric measurement; and there was no evidence that a solely metric system would benefit the U.S. economy.

As a result of the reaction in the 1970s, overt enthusiasm for metric conversion in the public and private sector waned—until 1988.

As mentioned, in the Omnibus Trade and Competitiveness Act of 1988, the metric system is designated the "preferred system of measurement" in the United States and requires all federal agencies to "go" metric. In 1991, President George Bush issued Executive Order 12770, which clarified the role of the Commerce Department to direct and coordinate all federal agencies in converting to the metric system. With these directives, proponents of metrication plan to stimulate conversion in the United States from the top down—from government, to industries, to small businesses, and eventually to consumers.

"The amended Metric Conversion Act of 1975 and the 1991 Executive Order provide both the rationale and the mandate for a transition to the use of metric units," says Dr. Gary P. Carver, chief of the Metric Pro-

gram at the National Institute of Standards and Technology (NIST). Metric conversion in the federal government could finally tip "the scale toward general acceptance of the metric system," notes Government Executive.

But how exactly will this latest attempt at metric conversion work? And how will it affect consumers?

THE CASE FOR METRICATION

Stimulate conversion.—The new attempt at metric conversion strongly encourages American industries that sell products to the government to produce these products in metric units. Conversion is voluntary for private industry. But if an industry sells to a government that is required by law to purchase metric-sized products, then what will that industry do? Answer: Either stop selling to that government or convert its products to metric measurement. Carver says the main objective of metric conversion in the federal agencies is to "stimulate" people, not force them to convert to metrics. The budgetary power of the 37 federal agencies involved is a powerful stimulus.

The General Services Administration (GSA), for instance, spends more than $2 billion a year on procurement. The entire federal bureaucracy spends more than $300 billion a year on goods and supplies. Under the law, all federal agencies must use the metric system in their procurements, grants, and other business-related activities. More than $300 billion in procurements will unquestionably affect the nation. Hence, industries have converted or are in the process of converting to the metric system.

Automobiles built by General Motors, Ford, and Chrysler are constructed using metric measurements, as are computer designs made by Xerox and IBM. Lockheed and Boeing aircraft have converted to remain eligible for Pentagon contracts. Soft drinks, liquor, tires, film, cameras, skis, and many weapons systems are either produced, sold, or labeled in metric measurement. The nowstalled Strategic Defense Initiative was built according to metric standards. And, by February 14, 1994, all consumer product labeling and packaging must be in both English and metric measurements. By "stimulating" businesses to convert either fully or partially to metric usage, metric proponents hope that Americans will eventually accept metrication as more and more consumer products and services are "metricised."

"We made a mistake after 1975 by trying to force metrics down people's throats," says Underwood. "This time, business is leading the way, and social and cultural change will follow." The metric system is apparently making its long march through the governmental institutions.

Trade and jobs.—Metric proponents say that conversion to the metric system is necessary and inevitable. Most of the world uses metric measurement and international trade involves metric-sized products. If American industry wants to stay competitive in the global marketplace, the reasoning goes, then U.S. industry better get on the metric bandwagon. By going metric the U.S. government "would open the door for new markets and thereby help to create the new jobs this nation so drastically needs," says Senator Claiborne Pell (D-R.I.). "[I]t is time for our government to assume a leadership position on the metric issue, instead of passively waiting for market forces to reverse our archaic system of measurement." The Commerce Department estimates that U.S. exports could be increased by up to 20% by offering metric-size goods to international markets.

In a speech before the National Metric Conference in 1992, President Bush endorsed metrication of U.S. products. President Clinton also supports metrication: "All developed nations except the United States use the metric system, and it is clear that our country will benefit by encouraging voluntary metric use by industry. These efforts can enhance America's competitive edge and help create new jobs and opportunities for our people." The European Community, which has a buying public of 320 million people, threatened to bar the importation of non-metric products after December 1992, but this deadline has been extended to December 1999.

Metrication of U.S. industry, say its proponents, will lead to better trade with Canada, Mexico, Europe, and the nations of the Pacific Rim. "Adopting metric is only one key to seizing these opportunities, but an important one that, when combined with other 'attitude adjustment,' will greatly affect the economic health of this country and our future standard of living," said Underwood.

Other benefits.—In addition to its effect on U.S. exports, metric conversion will benefit the average consumer, says NIST. Metrication should promote standardized and simpler product packaging, which will reduce the number of package sizes, simplify price comparisons, and lower packaging and shipping costs. These savings will reach the consumer, says NIST. In switching to metric, the U.S. liquor industry reduced the number of its container sizes from 53 to seven, which resulted in a substantial savings in production costs. In its metric conversion, IBM reduced 38,000 part numbers in fasteners to 4,000.

THE CASE AGAINST METRICATION

Regardless of the benefits of metric conversion to U.S. trade, opponents of metrication say there is no need for the United States to switch systems to accommodate the rest of the world.

"The people of this country should not be coerced to convert to the 200-year-old, artificially contrived metric system. Metrics are a language of technocracy and multinational trade. Let science and industry use the metric system as they need it," says Seaver Leslie, head of the Americans for Customary Weight and Measure, a not-for-profit group dedicated to retaining the English system of weight and measure.

Costs.—A survey by the National Federation of Independent Business (NFIB) in 1979 found that 69 percent of 55,401 of its members surveyed opposed metric conversion because of costs. "Metric conversion benefits large, manufacturing industries and most of these are already undergoing conversion, but the metric system should not be forced down the throats of all businesses in America. The cost to small firms, in time lost and wasted materials, could never be recouped," the NFIB said at the time. Fourteen years later, the NFIB, with 610,000 members, has not changed its position. "Most small businesses are opposed to metric conversion because of costs," says Terry Hill, a spokesman for the group. On a related note, the Nuclear Regulatory Commission estimates that it will cost the agency $2 to $3 million to convert to metrics. As mentioned, the GAO reported that the total cost of metric conversion of the United States was indeterminable—but would be in the many billions of dollars.

Confusion.—There is a single, world standard for the inch. But unknown to most people there are various metric systems in use today. The SI system proposed for the United States "is materially different from the metric system of other nations, [and] there is much evidence that these nations intend to protect their interests and thus are reluctant to adopt SI in its entirety. Even if the United States converts to SI * * * still no single worldwide system of measurement would exist," according to the GAO.

Metric conversion from the top down, if successful, would eventually affect nearly all aspects of daily life. Workers would have to be retrained, tools replaced, machinery modified, map distances changed, etc. Food and clothing sizes would change. Everything. Our centuries-old way of doing things (and thinking about them) would change.

Highway signs.—The 1978 Federal Aid Highway Act prohibited the use of federal funds for metric-only signs. This part of the law was overturned when the Intermodal Surface Transportation Efficiency Act passed in 1991. As a result of the 1988 metric usage law, all highway and highway-related construction funded by the federal government will be done in metric measurement. The deadline for this conversion is September 30, 1996. Although Americans objected to metric road signs when they were proposed in the 1970s, the Department of Transportation (DOT) is currently reviewing comments about metric conversion of highway signs. (As of this printing, it had not made a decision about sign conversion). In previous responses to this issue, 47% of states told the Federal Highway Administration they opposed metric conversion and only 18% supported it. Recent reports on the response to metric conversion of highway signs suggest that only a few states oppose the conversion. However, Amy Steiner of the American Association of State Highway and Transportation Officials says that states don't want to spend money on highway-sign conversion. "They [states] fear citizen backlash. Citizens don't want metric thrown up at them," she says.

At least one congressman isn't prepared to wait for the Transportation Department to make a decision. After introducing a bill (H.R. 3343) to prohibit the expenditure of federal funds on metric system highway signing, Representative Pat Williams (D-Mont.) said: "Changing over some areas in our daily lives to metric may make sense in some areas. However, modifying our highway signs does nothing to promote international trade. It does nothing to keep businesses in America. It will cause confusion. Some estimates peg the national cost to converting the nation's highway signs at more than $200 million." To date, no action on this bill has occurred.

Consumer fraud.—Metrication would confuse consumers and probably encourage consumer fraud. "Consumers would not know whether they are getting their money's worth for things sold by length, volume, or weight. They may not be able to recognize price increases," said the GAO. For instance, a gallon of gasoline that costs $1.21 would cost 32 cents per liter (one gallon equals 3.8 liters). "Gas guzzler taxes and registration fees based on vehicle weight are other areas for abuse," says the National Motorists Association of Dane, Wisconsin. The tables based on the metric system are different and costlier than existing tables, which are based on the English system. "When the wine and liquor industry changed the half-gallon to a 1.75-liter bottle, a 7½% decrease in volume occurred with no proportionate decrease in price," says Leslie.

WHO REALLY WANTS METRICS?

As mentioned, voluntary usage of the metric system was legalized in 1866. But Americans don't seem to want the system. A 1991 Gallup Poll showed that 64% of the U.S. pop-

ulation opposed metric conversion. Apparently some government suppliers are having trouble converting to metric precisely because Americans still don't want metric products. "Companies tell us that they're not going to change until their customers demand it," says Carver. "It's tough to get the Department of Commerce to switch to A4 [metric-sized] paper," he says. Other agencies cite similar problems.

To "metrify" to a large extent, the Postal Service, according to the GAO, said that "it would have to convince its vendors and customers to do so." However, many of these clients do not conduct business on an international scale. As a consequence, "when the Postal Service buys equipment that was designed in metric dimensions, it still has to convert some parts back to inches to ensure a ready and economical parts supply," said the GAO. The GSA said "[I]t can encourage its suppliers to convert to the metric system but cannot dictate to them."

If the Commerce Department, the agency responsible for directing metric conversion among the 37 Federal agencies, is finding it difficult to switch to metric-sized paper, then the future of total metric conversion in the government seems dubious. (Nonetheless, Carver remains optimistic and cites the success of the highway transition plan for 1996.)

As we go to press, the GAO had not released its update on metric conversion. However, indications suggest that metrication of federal agencies has not proceeded at the pace and to the extent its planners had envisioned back in 1988. As William Freeborne, the metric coordinator for the Department of Housing and Urban Development, says: "We're not in great shape." Even Carver says he is not comfortable with the latest report.

An interesting point is that taxpayers, who have repeatedly expressed their rejection of metrics, have been paying for forced government conversion, even though use of the metric system on a voluntary basis was legalized in 1866–128 years ago.

COMMEMORATING THE 79TH ANNIVERSARY OF THE ARMENIAN GENOCIDE

Mr. PELL. Mr. President, every April people of Armenian descent in America and around the world commemorate the anniversary of the genocide perpetrated against the Armenian people between 1915 and 1923. This tragedy is one of the most horrible in the history of humankind, yet it is often forgotten or overlooked.

Here are the facts. On April 24, 1915, the Ottoman Empire launched a systematic campaign to eradicate the Armenian people from Ottoman territory. In that year, hundreds of Armenian religious, political and intellectual leaders were rounded up, exiled and murdered. During the next 8 years, an estimated 1.5 million Armenians were killed through executions, during death marches, or in forced labor camps. Many women, children, and elderly people were raped, tortured, or enslaved. In addition to those killed, an estimated 500,000 Armenians were exiled from the Ottoman Empire, many of whom found their way to freedom in the United States.

Recently, the opening of the Holocaust Memorial Museum in Washington, the success of the movie "Schindler's List," and the campaigns of ethnic slaughter in the former Yugoslavia and in Rwanda have focused much attention on the tragedy of genocide. We are reminded that systematic execution of people based on their national or religious identity is not a phenomenon which can be ignored as a relic of history. As the horror in Bosnia and Rwanda demonstrate, ethnically based campaigns of murder are still possible, even as the world approaches the 21st century.

It is in this context that we remember the Armenian genocide, the first, but unfortunately not the last, genocide of the 20th century. It is also appropriate that we commemorate this tragedy at a time when there is renewed conflict and suffering as a result of the conflict between Armenia and Azerbaijan. I hope that the memory of the Armenian genocide, as well as the sight of the suffering of the Armenian and Azeri peoples, will spur a peaceful resolution to the dispute.

Mr. President, despite a long history of persecution and tragedy, the Armenian people have demonstrated remarkable moral strength, resilience, and pride, as demonstrated by the successes of Armenian-Americans and the great contributions they have made to our society. These qualities are also evident in the effort of the newly-independent state of Armenia to build a prosperous and democratic country after decades of Soviet oppression, an effort which I personally witnessed when I visited Armenia in January 1992.

The legacy of the Armenian genocide has not succeeded in deterring subsequent acts of genocide. However, it is only by continuing to remember and discuss the horrors which befell the Armenian and other peoples that we can hope to achieve a world where genocide is finally relegated to the realm of history books, rather than newspaper headlines.

TRIBUTE TO HENRY J. KOZIACKI

Mr. BOND. Mr. President, I am honored today to pay tribute to Mr. Henry J. Koziacki of the city of St. Louis. He is being honored as the Legionnaire of the Year by the 11th and 12th districts department of Missouri American Legion.

Considering his outstanding achievements and dedication to the American Legion, it is not surprising that Mr. Koziacki has been chosen for this honor. He has been an active member of the American Legion for 47 years, and has given untiringly of his time, effort and dedication to working the programs of the American Legion. He has held every elected office in American Legion Post No. 381 including Post Commander, a position he held in 1968. Mr. Koziacki is a life member of The Stanley Rozanski Memorial Post 381 American Legion.

In addition to his dedication to the Legion, Henry Koziacki served his country honorably in the Reconnaissance Company of the 37th Ohio Buckeye Division of the U.S. Army during World War II. He is presently serving the city of St. Louis as a deputy sheriff, a position he has held for over 20 years. Mr. Koziacki is a life member of the Gruhala-Gmeiner Memorial VFW Post 8112, and is a past president of the St. Louis Past Commanders Club. He is an active member of Voiture 38, La Societe des 40 Hommes et 8 Chevaux, the War Veterans Club, the Loco's Club, and Knights of Columbus Counsel No. 453.

As you can see, the list of Mr. Koziacki's accomplishments and dedication to the community goes on and on. It is therefore my honor to help recognize this fine citizen as Legionnaire of the Year. I extend to Mr. Henry Koziacki my most sincere congratulations.

A PAUSE TO COMMEMORATE THE ARMENIAN GENOCIDE

Mr. MOYNIHAN. Mr. President, I solemnly rise to commemorate a terrible chapter in European history. In 1915, the Armenians of the Ottoman Empire were subjected to what would now be called ethnic cleansing. An appalling campaign in which over 1 million Armenians were uprooted and deported from the Ottoman Empire. Many fell prey to forced marches which led to starvation and disease, while others were victims of executions and massacres. Armenians refer to this period as their national genocide and an event of such magnitude deserves pause: To honor those tragic victims of this dreadful period and to salute those brave souls who survived and were able to rebuild their lives. Some of them were able to make their way to our shores. They have demonstrated the true character of the Armenian people and worked to make a place for themselves and our Nation is strengthened by their presence.

It is appropriate for those who strive to see the rule of law achieved that we pause to remember the ghastly events of world history to inspire our efforts to prevent future tragedy.

S. 1852—THE HEAD START AMENDMENTS OF 1994

Mr. BRYAN. Mr. President, today I join many of my colleagues in cosponsoring one of the most successful and important programs of the Federal Government—Head Start—which has received ringing endorsements by politicians at both ends of the spectrum. The Head Start Amendments of 1994, S. 1852, children throughout this Nation will continue to be assured of quality preschool education.

For more than a quarter of a century, Head Start has prepared hundreds of thousands of our Nation's low-income children to begin school ready to learn. Sadly, there are thousands more who have not benefitted from this program due to inadequate funding. Currently only one out of every three children who are eligible for Head Start are being served by it.

As many of you know, my daughter, Blair, is a second grade teacher at Nancy Gomes Elementary School in Reno, NV, with a class of 19 students. It has been very enlightening for me to have Blair share her experiences with helping these young people learn. The obstacles many of these students must overcome in even getting themselves to their school can be heartbreaking. We can all be empathic to the struggle these children face when they arrive in the classroom and try to learn. Head Start can help these students and their families before that first day of school arrives to be prepared to come to class to learn.

Head Start is about getting kids off on the right foot when they begin their first day of school. It takes more to learn than just opening a book or looking at the chalkboard or listening to the teacher. It takes being well nourished, having the necessary immunizations, and receiving adequate health care. It takes parents who are willing to read to their children, review their homework and be actively involved in their child's education. It takes a community that's willing to make an investment in its children by coordinating available programs with Head Start programs. The Head Start Program in its manifold approach to early childhood development assists in all these areas.

Because the Head Start Program takes a multifaceted approach to helping disadvantaged children, the benefits are also numerous and diverse. Children move on to enter school healthy and well fed, ready to work and learn and less at risk of dropping out or being held back. Parents receive assistance in becoming self-sufficient through self-esteem building activities such as volunteering for the program. The community profits by enabling its disadvantaged residents to become productive members of the community.

Research has proven the success of this program. A U.S. Department of Education study found that Head Start programs are more likely to meet national accreditation standards for early childhood development programs than other programs that target this age group. Research shows that children who are enrolled in Head Start are less likely to be in special education classes or held back in school. Although some Head Start programs are clearly in need of improvement, we should not abandon the program altogether. With the proper resources and commitment, Head Start programs can be strengthened to achieve the goals they set out to meet.

In Nevada, the positive benefits are numerous. Expanding programs for children who are at risk of later school failure will help prevent more children from needing specialized compensatory or special education when they reach elementary school The expansion of current parent-child centers for pregnant women and mothers with infants and toddlers, as well as allowing for a percentage of Head Start participants under age three focuses on earlier cost-effective prevention of later problems.

The increase in poverty guidelines to match child care food program and WIC program income requirements will make it possible for a few more children and families to be eligible for these services. There are currently many at-risk children in Nevada who cannot participate in Head Start because their families do not quite meet the income requirements.

The bill's provisions will also allow funds to be set aside in program budgets for training of staff and parents. The quality standards to be required of Head Start programs will also ensure immediate corrective action is taken to address deficiencies and follow-up reviews are conducted.

The requirement of transition coordination with schools is a particularly important feature, especially for those children who may be eligible for special education of compensatory education services in the public schools.

Every child who needs it deserves a head start. The Head Start Program is the blue-chip stock in education that promises a big return on a very small investment. It is one of the best investments we can make in the future of our country.

GOAL NO. 4, S. 1150

Mr. JEFFORDS. Mr. President, I would like to clarify a point for my colleagues regarding goal No. 4, Teacher Education and Staff Development. The intent of this goal is to ensure a competent, well-trained education work force. Though focused most directly on classroom teachers, it is also noted in the legislation that other educators are critical to supporting teachers and students and therefore ensuring academic success for everyone.

I know my colleague, chairman of the Education, Arts and Humanities Subcommittee shares my concern that the term "other educators" be properly interpreted to include pupil services personnel, whom we all recognize as providing critical support and interventions in all K–12 classrooms.

Mr. PELL. I do concur with my colleague from Vermont that school based personnel such as psychologists, and school social workers are essential to providing comprehensive services in support of classroom teachers.

Student learning is a complex process. Classroom teachers often need the support of an interdisciplinary team of skilled school personnel to help students succeed academically. Allowing States to include professional staff in professional development where it will actually support teachers and their work is certainly an intent of this legislation, and will bring achievement of goal No. 4 much closer to reality.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

BANKRUPTCY AMENDMENTS ACT

The ACTING PRESIDENT pro tempore. Under the previous ordered, the Senate will now resume consideration of S. 540, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 540) to improve the administration of the bankruptcy system, address certain commercial issues and consumer issues in bankruptcy, and establish a commission to study and make recommendations on problems with the bankruptcy system, and for other purposes.

The Senate resumed consideration of the bill.

(Ms. MOSELEY-BRAUN assumed the chair.)

Mr. HEFLIN. Madam President, over the decades since enactment of the last major reform of the Bankruptcy Code, the monetary and financial landscape faced by both businesses and consumers has changed. As financial institutions have expanded to become more interstate in scope, and with increasingly complex transactions among companies, there has emerged a need for a Bankruptcy Code which can adapt to these changes. This code should reinforce the balance between the interest of the creditor and the debtor while ensuring strong commercial markets for both the consumers and businesses of America. The proposed amendments, as designated in the omnibus bankruptcy reform bill, make the necessary changes to carry the Bankruptcy Code into the next century.

For the reporting period in 1993, there were a total of 918,734 bankruptcy filings. This represents a slight decrease in 1993 over the number of bankruptcy filings reported in 1992, but even with a decrease the filings in 1993 are still more than double the number of case filings of any year prior to 1985. In fact, the annual reported filings during 1990–93 have been about twice the annual average for the entire 1980's.

Over the past 8 years filings nationwide have increased by 152 percent. Filings have doubled during this period in 37 of the 50 States and in Puerto Rico and the District of Columbia. In fact, in 13 States the bankruptcy filings have increased by a staggering 200 percent since 1985.

To give you an idea of the volume of cases, we can look to the average number of new cases a bankruptcy judge handles at any given time. In 1993 the average number of cases filed per judge was 2,818. In 1985 the average number of cases filed per judge was only 1,571. This increase is nearly a double increase with only an approximate 41 percent growth of new bankruptcy judgeships since 1983 to handle this caseload.

It is this sheer volume of cases running through a system which was designed many decades ago, that has partially necessitated the Senate Judiciary Committee to review and make proposed adjustments to the Bankruptcy Code.

The omnibus bankruptcy reform legislation is an attempt to update the code, as well as an effort to provide a rational framework from which future changes can evolve. The Judiciary Committee has held hearings to help determine the areas where changes were needed with the result being the bill which is now before the Senate.

The omnibus bankruptcy reform bill before the Senate would make numerous changes to the present Bankruptcy Code, including those designed: First, to help streamline and update bankruptcy administration; second, to bring a better balance between the rights of debtors and creditors; third, to bring a better balance to the relationship between secured and unsecured creditors; fourth, to bring about a more efficient and expedited small business reorganization procedure; fifth, to encourage the enhanced use of procedures where individual debtors can have an opportunity to pay their debts over a period of time rather than just outright bankrupt their debts; and sixth, to create the National Bankruptcy Review Commission to study the effectiveness of the current bankruptcy law and report on substantive changes that the Commission deems needed.

Among the many provisions of the proposed legislation are the following:

To enhance the increased use of the wage earner procedures by which debtors pay their debts over a period of time as outlined in chapter 13 of the Bankruptcy Code as opposed to outright bankrupting their debts under chapter 7.

Makes reorganization of small business quicker, more efficient and with less red tape than under present regular business reorganization procedures contained in chapter 11.

Simplify single asset real estate bankruptcy procedures.

Improve bankruptcy administration by establishing time limits, hearing requirements, use of status conferences, expedited procedures for debt reaffirmation, and appellate procedures.

Clarifies relationship between bankruptcy proceedings and antitrust review of reorganization plans.

Requires an evaluation of how bankruptcy proceedings can be improved through automation and computerization.

Requires expedited payment to creditors under chapter 13 procedures.

Gives authority to bankruptcy court officials to prevent abusive and exorbitant attorney fees.

Insures that the debtor may not use bankruptcy proceedings to avoid legitimate marital and child support obligations.

Prohibits the discharge of criminal fines exceeding $500 under bankruptcy procedures.

Establishes a uniform definition of "household goods."

What I have said thus far will give you a flavor concerning the contents of this proposed legislation.

I will have more to say about the details of the proposed legislation shortly.

Now I wish to discuss with my colleagues legislation which I introduced last November to significantly reform the bankruptcy system. This legislation, S. 540, is the result of a bipartisan effort with the ranking member of the Subcommittee on Courts and Administrative Practice, Senator GRASSLEY. We have worked diligently on this legislation since its introduction in 1992 to craft a package of amendments to the bankruptcy code which we believe are important and necessary.

This Nation is facing a record number of bankruptcy court filings from both individuals and corporations. There were approximately 940,000 filings—almost a million filing—during the 1991 calender year, and the Administrative Office of the United States Courts only expects this number to rise. In only the northern judicial district of Alabama the number of filings has risen from 10,223 in 1986, to a projected 20,000 plus filings for the current calender year.

This growth in filings is a result of a number of social and economic factors which are unrelated to the code. The purpose of our Nation's bankruptcy laws is to "try to put Humpty Dumpty back together again." This legislation is a measured response which seeks to address issues which have become highlighted in the bankruptcy system over the last several years. The Judiciary Committee has worked in a consensus-building fashion in an effort to enact legislation to respond to the calls for reform which have arisen and are highlighted by this significant increase in filings.

This bill developed out of a series of hearings and a floor debate during the last two Congresses. During those hearings and debate, the subcommittee heard from nearly 40 witnesses during public meetings of the subcommittee, and received numerous additional statements and communications from those participating in making suggestions to the subcommittee. This legislation was introduced and designed to address a number of important bankruptcy issues which were identified during the course of those hearings. Subsequently, the Judiciary Committee improved and modified this bill to address additional substantive issues and ensure that the bill's provisions are technically correct and workable. As a result of the time, attention, and hard work of the committee, I am pleased to note that this bill was favorably reported out of the committee on a 18 to 0 voice vote.

The first title of this bill contains miscellaneous provisions to update the Bankruptcy Code. Included in this title are changes in monetary figures to adjust for inflation, provisions to address compensation questions, provisions to address service of process questions, and reforms to clarify tax issues in the Bankruptcy Code. This chapter also mandates the judicial conference to report to Congress regarding its efforts to modernize and computerize the entire bankruptcy system.

Section 101—this section provides an amendment to the automatic stay provisions currently found in the Bankruptcy Code. This section provides that except upon a finding of good cause, final hearings on a motion for relief from the automatic stay must take place within 60 days of the filing of the motion. I understand and appreciate the crucial timing issues involved with the orderly administration of a bankruptcy case, however, the prompt action by a bankruptcy court is necessary in order to protect the rights of all parties in bankruptcy, and thereby enhances the entire bankruptcy process. Therefore, I believe this section is important and meritorious.

Section 104—this section is designed to accomplish two tasks by clarifying issues of reaffirmation of a debt by a debtor. First, this section provides that if a debtor is represented by counsel, it is not necessary for that debtor to appear before the court to reaffirm a debt. Second, in cases where a debtor is not represented by counsel, this section assures that the hearing before the bankruptcy court takes place prior to the discharge being granted to the debtor. I believe that both of these clarifications are needed and are long overdue.

Section 107 makes clarifications regarding the parties who may sit on creditor committees during a chapter 11 bankruptcy. This section would allow the Pension Benefit Guarantee Corporation and State pension funds to be eligible for membership on these creditor committees. This modification reflects the policy that some governmental entities, but not all, should be allowed to participate on these committees when the interest being protected by such entities is not strictly the government's interest, but the interests of pensioner's assets.

Section 109—this section raises the threshold dollar limitations for those persons eligible to file for chapter 13 bankruptcies from $350,000 to $1,000,000. I understand that in many cases persons who would otherwise deserve and desire the ability to file under chapter 13 have been prohibited due to this dollar limitation. In adopting this section, I believe Congress will recognize the desirability of chapter 13 and provide for its greater use by those in the bankruptcy system.

Section 110 and 105—these sections are important clarifications to the Bankruptcy Code in order to signal how the bankruptcy should operate in a chapter 11 case. Section 110 clarifies the relationship between bankruptcy proceedings and the procedures established under section 7A of the Clayton Act for reviewing proposed transactions by Federal antitrust authorities. Section 105, provides the explicit authority for the bankruptcy courts to manage their cases and dockets. While courts may not go beyond the bounds of the Bankruptcy Code, I believe that this section is desirable for giving an explicit expression of authorization which is already being exercised by some courts.

Section 114—this section, I believe, is a crucial element to this bankruptcy bill. This section seeks to ensure that debtors are fully knowledgeable of the bankruptcy process and some of its most important features. As I previously noted, many debtors desire to pay off their debts, however, some attorneys have simply never fully explained the benefits of this chapter to their clients and as a result an uninformed debtor is only left with the option of filing a chapter 7 bankruptcy. By requiring the U.S. trustee or their designee to discern an understanding by the debtors of their options and obligations in bankruptcy, the entire bankruptcy system is better served.

Title II of the bill addressing commercial and credit issues in bankruptcy. This title contains a number of important proposals.

Section 202—this section was added on to the committee reported bill. This section would create a statutory definition of "single-asset real estate," that is limited to the investment property of a debtor who has filed for bankruptcy. In such situations, this section would expedite the relief from automatically stay in cases involving single asset real estate where realistic plans of reorganization are not forthcoming.

To illustrate that a little bit, the only thing the debtor owns is, for example, a shopping center. And that is a single asset real estate. Therefore, it is only one issue involved. It ought not to have to go through all the details and requirements of chapter 11 reorganization and it ought to be handled in a much more expeditious manner.

This section would further allow foreclosure proceedings, which were commenced prior to the filing for bankruptcy, to continue up to, but not including, the point of sale, in order to ensure the prompt sale of property if relief from the automatic stay provisions of the code are granted by the bankruptcy court.

Section 207 contains amendments designed to enhance the protections given pension plans in bankruptcy and resolve what is known as the "antialienation problem." This problem arises when a bankruptcy judge orders an ERISA qualified plan or State plans not subject to ERISA to make a disbursement to an individual who has filed for bankruptcy in order to pay that individual debtor's creditors. Such an involuntary disbursement is in violation of ERISA law and may lead to the disqualification of a plan. However, if the disbursement is not made, a company risks facing the contempt authority of the bankruptcy court. This section seeks to address this issue by providing stability and protection of pension plans.

Section 208—this section would prohibit small business investment companies from being able to file for bankruptcy. These companies often operate similar to small banks who make loans to small businesses, and the current Bankruptcy Code prohibits both banks and insurance companies from filing for bankruptcy because alternative administrative schemes, such as conservatorships and receiverships, already exist to handle these types of financially troubled institutions. Small business investment companies have full rights under procedures set out by the Small Business Administration to reorganize and liquidate, and therefore, allowing them the ability to file for bankruptcy is duplicative. By taking this very simple step, the Congressional Budget Office believes that there would be a decrease of outlays of $51 million for fiscal year 1994.

Section 214—This section seeks to overturn the Deprizio line of opinions begun in *Levit* v. *Ingersoll* (*In re V.N. Deprizio Construction Co.*), 874 F.2d 1186 (7th Cir. 1989). This case turned upon issues involving guarantees and who may be considered an "insider" for purposes of the Bankruptcy Code. The specific language of this section has received a great deal of attention in order to narrowly but clearly overrule this series of opinions. We believe that we have accomplished this task. The specific language contained in the substitute bill which is before the Senate is different from that which was reported by the committee. We believe that we have improved upon that language which is reflected in this bill, and that it accomplishes its task of returning the understanding of the status of the law to that which predated the Deprizio opinion.

Section 215—this section is another clarification and modernization of the Bankruptcy Code. This section alters the current 10-day time provision to 20 days for a creditor to perfect a security interest after a debtor has filed for bankruptcy. By extending this time provision, this section simply protects the rights of creditors who may be abiding by State law which provides for a lengthier time to perfect, and thereby prejudicing the rights that the creditor may have in bankruptcy. This section further acknowledges the problem outlined in *In re Tressler*, 771 F.2D 791 (3rd. cir 1985), in which the operations of a governmental unit may prejudice a creditor by failing to take timely action in the perfection of a security interest. I believe this section is a good example of why this bankruptcy legislation is needed in order to improve and modernize our current bankruptcy laws.

Section 216—this section is designed to expedite the decisions by air carriers who file for bankruptcy to determine whether to accept or reject their airport gate leases. This section strikes a balance between protecting the debtor airline's ability to make a business decision in a timely fashion with protecting individual airports and the flying public by giving them some assurance that airport gates will be utilized to their fullest extent. In the past, some courts have been lax in requiring airlines to make these decisions, and as a result, substantial harm has occurred. By creating a lengthy period in which the airline may make these decisions, and then through shifting the burden of proving that substantial harm is not arising from the continued indecision to accept or reject these leases, I believe the committee has acted properly and thoughtfully in addressing this issue.

Section 219—this section clarifies the status of cash collateral in bankruptcy. In some States, where an interest in rents has been perfected by recording, some court's find this fact satisfactory for perfecting under the Bankruptcy Code. As a result, some creditors who believed they had fully secured interests have been caught short, even where proper notice has been given through the recording of the interest. It should be noted that this amendment is restricted to the Bankruptcy Code, that no right to or priority in rents or leases is conferred by this section, and that this section in no way preempts State law on these questions regarding perfection of security interests.

Section 220—this section was suggested and authored by Senator METZENBAUM and makes clear that retiree health benefits generally are to be paid in a manner similar to other administrative expenses during the pendency of a chapter 11 reorganization. It is important to note that this

plan does not modify what can be agreed upon pursuant to a plan of reorganization but simply enhances the protection and payment of retiree health benefits.

The third title of this bankruptcy bill addresses the application of the code when individual debtors are involved in the bankruptcy system. This title seeks to substantially aid the bankruptcy process and its relationship to individual debtors. In my opinion, it is the most important part of this legislation. Rather than following the current trend of going into straight bankruptcies under chapter 7, this title seeks to increase and encourage the use of chapter 13 bankruptcies in which wage earners reorganize their debts and are given the opportunity over time to pay creditors the money owed. The bill provides for important procedures by which debtors who file for straight bankruptcy can learn that they have other alternatives, including filing under chapter 13 of the Bankruptcy Code and their ability of transfer their filing under chapter 7 to a chapter 13 case. In my opinion, this title is drafted with the clear view of encouraging the use of chapter 13 bankruptcies, by which a debtor pays his or her debts over a period of time.

Sections 218, 307, and 301—these sections provide further refinement regarding the operations of chapter 13. Section 218 simply directs courts and trustees to begin making payments to creditor "as soon as practicable." Such distributions should be made in a timely fashion. However, each case will be dependent upon the circumstances of an individual case. Section 307 is simply another means provided for under the code to ensure that creditors are able to received moneys legitimately owed to them by parties who can pay. This section provides another avenue of relief from the automatic stay in order for a creditor to be able to go against a comaker or guarantor of a debt. Section 301 clarifies that Federal bankruptcy rights provided in sections 1322 and 1325 preempt conflicting State laws. Its intention is to overturn cases such as *In re Roach*, 824 F.2d 1370 (3rd Cir. 1987) and *In re Perry*, 945 F.2D 61 (3rd Cir. 1991), in order to allow debtors to use their preemptive Federal bankruptcy rights to save their homes from foreclosure.

Section 304—this section makes an important contribution to this bill. It seeks to address the growing problem of bankruptcy preparers who abuse the system in the course of preparing documents for debtors to file in bankruptcy court. This section establishes important procedures to police the wrongdoing by such preparers. This section is substantially patterned after the current law involving tax preparers and their obligations to those whom they aid in filing tax forms. This section provides criminal and injunctive penalties for those violating its provisions. Further, it explicitly recognizes that this section should not be construed to provide authority for conduct which is not otherwise prohibited by law, such as the practice of law.

Section 305—this section is a minor improvement and codification of current practices in many courts by simply mandating that bankruptcy clerks give notice to all creditors when an order for conversion or dismissal occurs in a chapter 13 bankruptcy.

Section 306—I believe that this section is one of the most important provisions of this bill. This section would protect the mortgage-backed securities market, and address the issue of cramdowns in chapter 13 bankruptcies. In a cramdown, an individual debtor bifurcates a secured claim against real estate into two components or claims: A secured component—measured by the fair market value of the real estate—and an unsecured component—measured by the excess of secured debt over the fair market value of the real estate. This section would completely protect the entire claim in cases of first mortgages on residential real estate that is the debtor's primary residence. The section would generally protect junior security interests except in circumstances where the security interest was undersecured at the time of contracting, and only could be subject to a cramdown to the extent that it remains undersecured at the time of the bankruptcy. By inference, this section does acknowledge a court's ability to bifurcate residential real estate under section 1322 by the operations of section 506 of the Bankruptcy Code. By protecting these important interests, the mortgage marketplace is protected, stability of this marketplace enhanced, and therefore the consuming public who are currently faced with uncertainty regarding residential real estate is served.

Section 308—I believe that this section is a modest amendment to the Bankruptcy Code to create a Federal definition, for purposes of the exemptions section of the Bankruptcy Code, that is in line with other Federal law. The definitions of antiques and household goods contained in this section follow a 1985 Federal Trade Commission rule on credit practices and, therefore, aid in streamlining credit practices through parallel provisions of Federal law. Finally, it should be noted that this section does not have the force of law in the overwhelming majoring of States who have determined to establish their own exemption provisions.

Section 309 seeks to add to the body of law regarding attorney fees in bankruptcy. This section has been adopted at the suggestion of Senator METZENBAUM who has been at the forefront of this question. This section has been subject to improvements and modifications from the initial sections adopted by the committee in order to meet a number of constructive criticisms by both the public and the Department of Justice.

During the course of our hearings, it became very apparent that chapter 13 is often the best overall process for debtors, creditors, and the national economy. Numerous bankruptcy judges have indicated that most individuals want to pay their debts in a manner similar to the program offered under chapter 13 of the code. Unfortunately, the use of this chapter is not widespread throughout the country, and many people are simply not informed that this option is available when they seek the Bankruptcy Code's protection. This title contains many provisions that take into account these concerns.

The fifth title of the bill establishes a new National Bankruptcy Review Commission. This Commission would be similar to the Burdick Commission of the early 1970's that resulted in the current Bankruptcy Code. It should be noted that this Commission is designed to review and not to rewrite the entire Bankruptcy Code. Its purpose is to allow further thoughtful study of the functions and balances which are currently built into the Bankruptcy Code, and to provide Congress with recommendations to address areas in which the Bankruptcy Code may be improved and modernized.

The final title of this legislation is a technical title which seeks to correct a number of minor problems which have arisen since the Bankruptcy Code was enacted in 1978.

During the course of this speech, I have restricted my comments to many of the provisions contained in the bill that was reported out of the Judiciary Committee on a unanimous vote.

This bill is basically the same bill that also passed in the last Congress in the Senate unanimously by a 97 to zero vote. It went to the House, and the House passed a bankruptcy bill. The Senate passed the conference report unanimously and without dissent. The House, however, failed to pass in the last days of the last Congress this legislation.

So it was not enacted into law, and it is now back before us this time. I expect that I will have further comments on these and other sections of the bill as the debate on this measure continues.

I want to conclude these remarks by stating the obvious; that is, that I believe it is a very good bill. I know that this bill will not be all things for all people. We have done our best to legislate in some important areas of the code and still be able to craft a piece of legislation that is thoughtful and coherent.

Some of the issues which are not addressed in the current bill will be subject to further attention hopefully by

the review commission. These efforts are designed to ensure equity and fairness in our Nation's bankruptcy law. I believe the bill passed by the committee is a good and a thoughtful piece of craftsmanship.

I know that it is not a perfect bill, and that if I alone were able to pass legislation, this bill would look different than it does today. However, this is not the world in which we live. Therefore, compromises have been struck, agreements have been reached, and suggestions have been accepted in order to pull together a wide range of interest and put them behind this bill.

I urge my colleagues to join with Senator GRASSLEY and me in supporting this legislation and seeing that this important bankruptcy reform legislation is enacted into law.

I want to thank Senator GRASSLEY for his work. He has been very thoughtful. He has spent numerous hours and hours, days and days, and weeks in this as well as his very competent staff in trying to come forward with an omnibus bankruptcy reform bill which meets the demands of a changing world and a changing economy today.

I thank him again for his work in this as well as the members of the Judiciary Committee for their very thoughtful attention to a very complex issue of our law.

At this time, I yield the floor.

Mr. HATCH. Mr. President, let me begin by expressing my appreciation to Senators HEFLIN and GRASSLEY, chairman and ranking Republican of the Subcommittee on Courts and Administrative Practice, for their exceptional efforts with regard to S. 540, the Bankruptcy Amendments Act of 1993. As the principle sponsors of this legislation they have provided the leadership necessary to craft a bill that is acceptable for the most part and, more importantly, fair to the diverse interests in our creditor and debtor communities. I applaud their efforts.

I would especially like to thank and acknowledge Senators HEFLIN and GRASSLEY for their leadership in developing meaningful provisions to assist the small business community of this country. Small businesses are the foundation of this country's economy, creating three-quarters of the new employment opportunities for our citizens. They deserve the type of protection these Senators have agreed to provide in chapter 11. These new provisions will expedite the bankruptcy process for small businesses, helping them navigate through bankruptcy successfully. America's small business community has been well served by their efforts.

Let me state that I support the vast majority of the provisions in this important legislation. However, I am also compelled to voice my very strong objection to section 220 of the bill. Section 220 would have a devastating impact on companies with substantial retiree benefits obligations and on their employees. It offers an ill-conceived approach to bankruptcy wherein a troubled company without sufficient unencumbered assets is obligated to make first use of any cash collateral, as well as any new credit, to fund prepetition retiree health and insurance benefits. Under section 220, payments to retiree health and insurance funds would come ahead of current employee salaries and payments for operating expenses and needed supplies.

In my opinion, section 220, as currently in the bill, is far too inflexible and will ultimately lead to the liquidation of many viable business interests, rather than to their successful reorganization. The many troubled businesses that are successfully reorganizing under present law will be forced to close shop and liquidate, leaving the current work force without jobs and retirees without any health or insurance benefits. In my view, section 220 is both antiretiree and antiemployee.

Mr. President, during the course of the Senate's consideration of this bill, we hope to restore protection to retirees and current employees. To accomplish this we must strike section 220 and add new language which will clarify that a company's cash collateral or new credit agreement will not relieve a bankruptcy trustee from its obligation to pay retiree benefits. Furthermore, the language must reaffirm that the obligation to pay retirees may only be modified in accordance with the procedural safeguards established for retirees outlined in section 1114. Unlike section 220, this approach not only theoretically protects retiree rights, but also sets forth a balanced approach which will lead to the actual recovery of health and insurance benefits. It will provide the type of real protection our retirees deserve and expect.

I will have more to say on this later. For now, I compliment my colleagues on the Judiciary Committee for their work on this legislation.

In closing, let me reiterate my support for the vast majority of provisions in this bill. This bill is simply designed to enhance the effectiveness of the Bankruptcy Code, not to overturn it. It contains several provisions designed to streamline and update bankruptcy administration and provides for the creation of a National Bankruptcy Review Commission. Additionally, several consumer bankruptcy provisions will assist wage earners to successfully create a plan of reorganization, pay their debts, and begin anew.

Finally, Senator GRASSLEY will be floor managing this bill for the Republicans.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Madam President, I believe that the Senator from Alabama has done a very, very good job of explaining precisely what this legislation does, and what we intend it to accomplish, and also some of the problems we had in working our way through to this position of having a bill reported out of committee by an 18-to-0 vote.

For sure, I cannot do better than Senator HEFLIN has done in his explanation of the legislation. I do not need to go into the sort of detail that he did. But I think that he has demonstrated why we were able to get this bill reported out of committee on an 18-to-0 vote. It is because of his outstanding leadership as chairman of the Subcommittee on Courts.

So not only does the product before us demonstrate a lot of very time consuming hard work, but it also demonstrates a massive amount of leadership as you try to get people to compromise, to be reasonable, and still get a bill reported out of the Judiciary Committee.

I hope that we are able to get it through this body without a lot of controversy because controversy in bankruptcy legislation might mean no legislation at all.

The end result of that approach to this type of legislation would be no legislation at all I feel. That is why we put considerable emphasis upon the establishment of a bankruptcy commission that would study the more controversial issues, that are not as necessary immediately to pass, and move forward.

But the product before us is a result of the hard work and leadership of Senator HEFLIN. I recognize that, and I thank him for it.

The need for this legislation is, of course, very great and urgent. Our approach—to enact provisions on which there is consensus—does not mean it is not needed. I hope the fact that there is consensus does not cause anyone involved in this to think this bill is not important.

This year, as part of the reason for urgency, about 900,000 bankruptcy petitions will be filed. In most years since the Bankruptcy Code was enacted in 1978, the number of filings has increased very significantly. Last year, there was a small decline in filings, and we are thankful for that. That is directly related to the economy strengthening and consumers reducing their debt.

Future numbers are difficult to predict. But the recent Midwest floods, as an example, or on the west coast the California earthquake, could result in a downturn in the economy so that we will unfortunately not reduce bankruptcy filings maybe in the short term.

To put bankruptcy filings in perspective, about 250,000 civil cases and about 50,000 criminal cases are filed in our Federal courts. Thus, of the 1.2 million cases brought each year in our Federal courts, about 75 percent are bankruptcy cases.

Indeed, 1 in 10 Americans can now expect to file for bankruptcy at some point in their life. There is nobody involved in this legislation who wants that to happen. If we can do some things to keep it from happening, I would think we would all want to. But the fact is that the bankruptcy is a fact of economic life. Maybe it is a little easier than it should be. I think I would take the position that it is—but still an economic fact.

So a Bankruptcy Code up to date with the realities of our economy is very essential for the functioning of a free market economy.

Additionally, seemingly every day, the popular press reports on some corporation that has filed for bankruptcy. And in today's economy, bankruptcy has assumed a level of importance and prominence that it has never had before. We can regret the fact that various economic conditions have brought this result. And the legislation before us today—I want to make this very clear—is not designed to encourage bankruptcy filings, or make bankruptcy any more desirable.

We see ourselves as authors of this legislation responding to reality. I might even look back at the 1978 legislation and say, "Well, that made it easier to file for bankruptcy and that is bad." And I think I tend to believe that personally. I am not saying that anybody else has to agree with me on it. Also, I think that when we talk about bankruptcy legislation, people at the grassroots viewing what we are saying have that in the back of their mind, that, well, it is just too easy to file bankruptcy. They might have the view that we are somehow making it easier to file bankruptcy, since every time we pass legislation the number of filings go up. That was not the intent of Congress in 1978, but that was the result.

I want to make very clear that that is not our intent, and we are not making any value judgment in this legislation on whether or not bankruptcy is good or bad.

We are saying simply that we have had bankruptcy law for the entire history of our country. It is a constitutional prerogative of Congress to legislate in that area. Our intent here is to just bring the code up to date and not to have any impact upon the moral and ethical issue of the right or wrong of bankruptcy.

With that reality behind us, the fact is that no other area of Federal law has so many unresolved fundamental questions as bankruptcy.

What is the relationship, for instance, between bankruptcy laws and environmental laws? What about the interaction of ERISA with bankruptcy laws? Remember, ERISA was passed in 1974. The Bankruptcy Code was enacted in 1978. So you could not foresee all that ERISA might impact upon the economy and affect bankruptcy laws.

Let me say, Madam President, that there are even constitutional questions about the operation of our bankruptcy system. We know that the world is growing smaller because of trade, and so the globalization of our world economy raises uncertainties about the code. Besides these reasons for revising the Bankruptcy Code—and they are very good reasons—we also must keep in mind that the code has not changed much since its implementation in 1978. Numerous proposals have been offered to make the code operate more effectively and fairly. Circumstances require that these be considered, and that is the "why for" of S. 540. It responds to the need to reform bankruptcy laws in two ways:

First, it establishes a National Bankruptcy Review Commission. This Commission, to be composed of bankruptcy experts, will review the operation of the code, and it will report to Congress ways to make our Nation's bankruptcy laws and our code more effective. I want to stress that this Commission is designed to review the code, and we are not setting it up to overhaul it. The term "fine-tuning" might better fit the purpose we see behind the Commission's establishment, because we on the Judiciary Committee are generally satisfied with the code, and we are not interested in the proposals that start from scratch.

What we are interested in is a careful examination of the code and suggestions for how Congress can best exercise its constitutional powers under article I, section 8, which gives Congress the power to establish uniform laws on the subject of bankruptcy throughout the several States.

Second, this bill contains several provisions that the committee felt should be enacted right now. These represent changes in the code which command consensus. And a consensus, I am sure, has been very hard for our chairman, the distinguished Senator from Alabama, to find. I think for the most part we have consensus, or we would not get a bill reported out 18 to 0. That vote in itself represents consensus. I also said that probably it would not be worth bringing a bill up on the floor if we did not have that sort of consensus, because it is just so complex that we would not be able to handle it here, and we would not get anything done.

So the bill does command consensus, and there is no need to wait 2 years for this review commission to report these changes that we already feel should be made.

Additionally, there is no need for the commission to spend its time examining these issues when there are others on which expert opinion will be more valuable.

These changes derive from a series of hearings that the Courts Subcommittee held in the 102d and 103d Congress.

At these hearings, the subcommittee heard from dozens of witnesses on various proposals. These hearings led to last Congress, S. 1985, and that passed this body by a vote of 97 to 0, again showing consensus.

This bill before us, S. 540, contains many of the same provisions that passed this body unanimously in 1992. One of the bill's features is to increase the permissible limits in chapter 13 filings, and eliminate the distinction between secured and unsecured debtors and the debt that goes with them as a condition for satisfying the limits. The maximum figure for filing a chapter 13 petition has not been changed since our last massive reform of bankruptcy in 1978, despite very significant inflation over that period of time.

So, again, bringing the code up to the economic facts of life of USA 1994, the outdated debt limit has eroded the ability of potential users of chapter 13 to file wage earner plans. As a result of the increased debt limit, more people will be able to file in chapter 13 compared to chapter 7 liquidation.

I think that the extent to which we can avoid chapter 7, our economy is better off, because a greater ability to file chapter 13 benefits both debtor and creditors. This provision is one of a number in a bill designed to foster chapter 13 usage among those who must file for bankruptcy. Hopefully, it is always a last resort.

This bill also addresses the concerns raised in the hearings regarding the seventh circuit's 1989 decision in Deprizio. Again, our distinguished chairman discussed this at great length. I have one or two points I want to emphasize. We believe that Deprizio should be overturned by amending section 550 of the code in a very narrowly crafted way. Under the current Bankruptcy Code, a trustee can recover preferential payments made by the debtor within 90 days of the bankruptcy filing.

The trustee may recover preferential payments made up to 1 year before the filing, if the trustee determines the payment was made to an "insider." That is an individual or entity that owns or controls the debtor, or which is an officer or director or relative of such a person.

In Deprizio, the seventh circuit extended to the trustee recapture power to such persons as insiders merely because they may have executed a personal guaranty of a loan to a debtor.

Section 214 of the bill does not change the trustee's preference avoidance powers. Rather, it clarifies the trustee's remedies in the event that the transfer is preferential. If a debtor acts in such a way as to affect the Bankruptcy Code's pro rata distribution rule, the trustee will have available a remedy against the party actually preferred, and not against the innocent party.

Although this change is to a fairly technical and complex section of the code, the change provided in section 214 has important practical effects.

For instance, a lender may lend money to an interrelated corporate group and be paid back by one of these corporate entities. Under Deprizio, the lender could face a 1-year preference period, even though it lent to a corporate group because of the existence of a guaranty against the other corporate group. We believe that a lender should not face a conclusive presumption that an outsider is tainted as an insider by virtue of a guaranty; and notwithstanding the existence of the guarantee, the lender should not have to worry about the possibility of a preference period longer than 90 days.

Another provision of the bill, section 202, addresses the abuse of chapter 11, and this is in regard to single asset real estate cases. This abuse has been noted by some of the Nation's most eminent judges. Owners of single asset real estate entities file presently to reorganize, but because they have only a single asset, there is nothing, then, of course, to reorganize. The filings are often made without even a pretense of belief in the ability to reorganize.

Section 202 would terminate the automatic stay in single asset filings 90 days after the commencement of the chapter 11 proceedings if the debtor has not filed a feasible plan of reorganization. Alternatively, the debtor may commence payment of interest at the fair market value rate on the value of the real estate held as collateral. The provision, which does not apply to small residential properties, will ensure that the automatic stay is not abused while giving the debtor an opportunity to create a workable plan of reorganization.

Madam President, S. 540 will set forth the framework for bankruptcy reform, and this is a legislative initiative that is vitally needed. It will do that, as I said, through the creation of a Commission to review the code, and it will make necessary changes in the bill right now that should not wait for that Commission to study and to make recommendations.

This bill will not encourage the filings of bankruptcy petitions. I want to say that again, and I hope that the chairman will comment on this, because I think this is a message that we should send loud and clear, that this bill will not encourage the filing of bankruptcy petitions. But it will make positive changes in the operation of our bankruptcy laws so that they will deal, then, with the very enormous volume of petitions that are filed each year.

Equally, and perhaps more important, Madam President, this bill will set the stage for a comprehensive review of the code, from which will hopefully develop important and valuable ideas for future changes in the operation of the Bankruptcy Code.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. KOHL. Mr. President, I rise today to congratulate my colleague and friend—Senator HEFLIN, chairman of the Courts Subcommittee—for his leadership on the bankruptcy bill. Once again Senator HEFLIN's dedication and perseverance have brought this important measure before this body. And once again, I am certain that an overwhelming number of my colleagues will support this measure. I also note that Senators GRASSLEY and METZENBAUM have made important contributions to this process and they also deserve commendation for their efforts.

Mr. President, there are many important provisions in this legislation and we will consider additional amendments as we proceed. However, I believe that we will finish the process as we began: with a good piece of legislation that improves the overall bankruptcy process by addressing the legitimate needs of both debtors and creditors.

In that regard, I thank the distinguished manager for including my Equipment Leasing Fairness Act as part of the bill. The act includes several clarifications to sections 1110 and 1168 of the Bankruptcy Code that will resolve ambiguities in the law without upsetting the delicate balance of fairness and equity between the air and rail industries, the equipment manufacturers, and the parties financing the equipment.

I was pleased to work with Senators HEFLIN and GRASSLEY on these provisions, and I ask unanimous consent that additional comments regarding these provisions be printed in the RECORD following my remarks.

I would also like to mention section 107 of the bill, which would allow State pension funds and the Pension Benefit Guarantee Corporation to sit on creditor committees in chapter 11 reorganizations. Currently, State pension funds and the PBGC are precluded from participating as voting members of these committees. The unique interests of retirement funds, as long-term investors, are not represented by other creditor and equity holder committee members, who may have different goals or shorter term investments. These interests are thus put at an unintended fiscal disadvantage. Section 107 would allow State pension funds and the PBGC to serve on these committees, as long as they meet all other appropriate criteria. It would not give them any special treatment; rather, it would simply lift an unintended burden from their shoulders.

Finally, let me say that to many Americans—including sophisticated businessmen and other professionals—the Bankruptcy Code appears to be an archaic and somewhat cryptic statute. But the truth of the matter is that the Bankruptcy Code provides critical guidance to businesses and individuals who face the daunting task of resolving difficult economic problems. And this legislation gives us the chance to clarify ambiguities, make needed improvements, and to legislate fairness and uniformity at the same time. So, I again commend the manager of the bill and I yield the floor to my distinguished chairman.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DESCRIPTION OF THE LEGISLATION

(1) Deletes the phrase "purchase-money equipment" throughout section 1110. Section 1110 currently provides protection to purchase-money equipment security interests in, as well as leases and conditional sales of, aircraft equipment and vessels. Under the current language of section 1110, the only protected security interests are those obtained at the time the equipment is acquired. This application, however, is confusing in view of the fact that both acquisition and post acquisition leases are protected. The amendment deletes the phrase "purchase-money equipment" throughout section 1110. This deletion would guarantee that all modes of debt financings and lease financings that involve a security interest, not only security interests obtained at the time the equipment is acquired, would receive section 1110 protection. This change would be phased-in so that only new equipment first placed in service after the date of enactment of the Act would be affected by the proposed amendment.

(2) Deletes the "purchase-money" requirement in section 1168 and restores historic equipment trust protection. Section 1168 provides parallel treatment to purchase-money equipment security interests in, and leases and conditional sales of, railroad equipment. The proposed amendment changes the phrase "purchase-money equipment security interest," which appears in three places in the existing section 1168, by deleting "purchase-money equipment" in the first two appearances of the section, but deleting only "purchase-money" the third time the phrase appears. The deletion of the phrase "purchase-money equipment" in the first two instances will enable the railroad industry to utilize a variety of financing vehicles and will continue to protect financing arrangements currently employed by the railroads. For example, a finance lease, which historically has been an integral part of a railroad equipment trust protected by section 1168 and section 77(j) of the Bankruptcy Act (section 1168's statutory predecessor), would continue to be covered by section 1168. In addition, the deletion of only the phrase "purchase-money" the third time the phrase appears is intended to emphasize that section 1168 is meant to cover financing of equipment and is not intended to extend to a general mortgage on all of the carrier's assets. Further, the deletion of the phrase "purchase-money equipment" in section 1168(a) continues the application of section 1168 to Philadelphia plan equipment trusts.

These changes to section 1168 would be phased-in to apply only to new equipment first placed in service, and equipment that is substantially rebuilt, after the date of enactment of the Act. Railroad equipment would be considered substantially rebuilt (i) when costs of rebuilding could be capitalized pursuant to the regulations and practices imposed by the Interstate Commerce Commission ("ICC") on all carriers by rail, (ii) such rebuilding would substantially extend the service life of the equipment under such reg-

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ulations and practices, (iii) after such rebuilding the equipment would be recognized as rebuilt pursuant to applicable rules and regulations of the Association of American Railroads ("AAR") and, (iv) after such rebuilding, the equipment would conform to applicable rules and regulations of the Federal Railroad Association. Rebuilding would be distinguished from repairs, routine maintenance and major overhaul. The AAR has extensive rules and regulations regarding the scope and quality of work required for rebuilt equipment to be used in interchange service on any railroad within the United States. To the extent that equipment is covered by AAR rules and regulations, such rules and regulations, in conjunction with ICC requirements, would govern the standard of work and materials required to constitute rebuilding. Such rebuilding would have to be substantially in excess of the original manufacturer's recommended maintenance procedures to ensure normal service life.

(3) Clarifies that costs and expenses attributable to a trustees's failure to fulfill its maintenance and return obligations are priority expenses of the estate. Most financing agreements contain covenants requiring the borrower or the lessee, as the case may be, to maintain and return equipment in appropriate condition. If these covenants are breached, the financing party's residual interest in the equipment can be significantly impaired. The proposed amendment adds a new subsection to the end of sections 1110 and 1168 to clarify that if an airline or railroad makes an agreement of the type specified in sections 1110(a)(1) or 1168(a)(1), administrative priority would be given to all expenses attributable to a trustee's failure to fulfill his maintenance and return obligations.

(4) Provides a safe harbor definition of the term "lease". A substantial amount of litigation has focused on the nature and type of lease agreements that may be within the scope of sections 1110 and 1168. The result of this litigation has been to cloud the rights to such aircraft and railroad equipment for months while a court resolves the issue, thereby effectively nullifying the purpose of these sections. The proposed amendment adds a new subsection to the end of sections 1110 and 1168 to provide a safe harbor definition of the term "lease" for equipment first placed in service prior to the date of enactment. Under the amendment, a lease would receive section 1110 or section 1168 protection if the lessor and the debtor, as lessee, have expressed in the lease agreement, or a substantially contemporaneous writing, that such agreement is to be treated as a lease for Federal income tax purposes.

This definition would be nonexclusive in nature, and other agreements that would qualify as true leases for Federal income tax purposes (and subleases, under such true leases, to debtors) would also be covered under sections 1110 and 1168. The safe harbor definition is designed to provide certainty for those parties seeking assurance that their transaction falls within the scope of these sections, and thus minimize needless litigation. The definition of "lease" and the distinction between section 1110's and section 1168's coverage of leases and secured loans would be inapplicable under the amendment with respect to equipment first placed in service after the effective date. In addition, to further minimize such litigation, an agreement which would otherwise be treated as a lease under this subsection would not fail to qualify for the benefits of this section because the agreement contains provisions: (1) permitting the debtor to subject the equipment to interchange agreements and pooling or other similar arrangements customary in the industry; or (2) permitting or requiring the debtor to return the equipment with substitute components, or substitute equivalent equipment in the event of a casualty or loss.

(5) Updates and modifies certain citations and references in section 1110. Section 1110's citation to the Ship Mortgage Act and reference to the Civil Aeronautics Board are outdated. The Ship Mortgage Act has been amended and recodified, and the Department of Transportation has assumed the Board's role as certifying authority for air carriers. The amendment updates the language of section 1110 to reflect these changes.

(6) Clarifies that the rights of a section 1110 or section 1168 creditor would not be affected by section 1129 "cram-down." In a recent airline bankruptcy proceeding, it was asserted that equipment loans, otherwise protected by sections 1110 and 1168, could nonetheless be unilaterally modified by the debtor such that the terms of the loans could be lengthened, the interest rates could be reduced and other materials terms could be altered. This contention arose under section 1129, dealing with procedures for approving plans of reorganization, and would apply only to loans and not to leases.

Although such an interpretation of section 1129 would violate the fundamental premise to sections 1110 and 1168, that the parties are entitled to the benefit of their bargain notwithstanding a bankruptcy proceeding, there is an enormous concern in the marketplace that this issue is likely to be the next subject of major and protracted bankruptcy litigation.

The proposed amendment, then, simply makes clear that section 1129 would not affect the rights which sections 1110 and 1168 are intended to preserve to financiers in financing transactions.

(7) Application of the Amendment. The amendment of sections 1110 and 1168 shall not apply to bankruptcy proceedings commenced prior to the date of enactment of the Act.

Mr. THURMOND. Mr. President, I rise in support of S. 540, the Bankruptcy Amendments Act, sponsored by Senator HEFLIN and Senator GRASSLEY. This legislation reflects significant bipartisan efforts to provide much needed reform of our bankruptcy laws by addressing new issues which have arisen and attempting to streamline the bankruptcy system. The bill is the result of numerous hearings before the Subcommittee on Courts and Administrative Practice over a long period to consider various bankruptcy issues and their effect on the bankruptcy community.

S. 540 represents a comprehensive reform of the Bankruptcy Code. The first title of this legislation addresses issues involving individual debtors and bankruptcy court administration. This title seeks to encourage individual debtors to file chapter 13 bankruptcies, if possible, as opposed to liquidating under chapter 7. Other provisions of this title will increase the maximum eligibility limits for filing a bankruptcy under chapter 13, and require that the debtor be examined under oath to determine if he or she fully understands the consequences of filing a bankruptcy.

Title II addresses a number of commercial and credit issues in bankruptcy. It seeks to clarify bankruptcy law with respect to Employee Retirement Income Security Act pension fund assets and encourages bankruptcy courts to begin payments under a chapter 13 plan as soon as possible. Title III relates to a variety of consumer bankruptcy issues, including greater protection for children and former spouses who are beneficiaries of child support or alimony payments.

Title IV establishes a National Bankruptcy Review Commission to study problems relating to the Bankruptcy Code and develop proposals to make the bankruptcy process more effective and efficient. The Commission will report its findings to Congress for appropriate action. The final two titles of the legislation contain technical corrections.

Mr. President, in my home State of South Carolina, as in the rest of the Nation, bankruptcy filings have increased dramatically in recent years. The Congress must take steps to ensure that the bankruptcy system is not overwhelmed by this increase and the problems which have accompanied it. The bill we are considering today contains many necessary reforms that will assist in making the system more efficient. I believe that overall this legislation is fair to all parties, and I urge my colleagues to vote in favor of S. 540, the Bankruptcy Amendments Act.

AMENDMENT NO. 1632

(Purpose: To express the sense of the Senate that all parking areas reserved at Washington National Airport and Dulles International Airport for Members of Congress and other Governmental officials should be open for use by the public, and for other purposes)

Mr. MCCAIN. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes an amendment numbered 1632.

Mr. MCCAIN. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At an appropriate place in the bill add the following new section:

SEC. . It is the sense of the Senate that—

(1) the policy of providing reserved parking areas free of charge to Members of Congress, other Government officials, and diplomats at Washington National Airport and Dulles International Airport should be ended; and

(2) the Metropolitan Washington Airports Authority should establish a parking policy for such areas that provides equal access to the public, and does not provide preferential parking privileges to Members of Congress, other Government officials, and diplomats.

Mr. MCCAIN. Madam President, the reason for bringing this amendment be-

fore the Senate is that this body should express its views on this issue, and I would like to explain to my colleagues why this is necessary.

Beginning in March 1992, I corresponded with the Metropolitan Washington Airports Authority, without commensurate press releases, in my desire to see that free, reserved parking privileges for Members of Congress at Washington National and Dulles Airports be abolished.

I wrote a second letter in August 1992, urging that that take place. I received the following response on August 25, 1992.

Dear Senator McCain:

And I quote in part:

In my letter to you of April 24, I advised you that I believe the Authority should receive a request from the leadership of the Congress before we on our own end this 51-year custom. I have not changed my mind.

When the Metropolitan Washington Airports Act of 1986 was being considered by the Congress, I personally promised hundreds of Members of Congress that the practice would not be changed.

Under the circumstances, I do not consider it appropriate for the Authority to withdraw a privilege offered to the 540 Members of Congress at the request of one or two of them. Though I agree that the law does not require the Authority to provide Congressional parking, we should nevertheless look to legislative action by the entire Congress, or at least a request of the leadership of both bodies, before eliminating the parking privilege.

That was signed by Linwood Holton, who was chairman of the board of directors.

I then submitted additional correspondence later to the Airport Authority's board of directors in April 1993, urging again—without press releases—that the Metropolitan Washington Airports Authority do away with the free and reserved parking spaces reserved for Members of Congress, the Supreme Court, and the diplomatic corps at Washington National and Dulles Airports.

I received the following response on April 13, 1993.

DEAR SENATOR MCCAIN: I thank you for your letter of March 3 presenting a plan for parking at Washington National and Dulles Airports. I refer to the previous correspondence between yourself and predecessor Governor Holton and reviewed the history of arrangement with the courts and diplomatic corps. I do not believe it would be appropriate for the board of directors of the authority to unilaterally terminate this agreement.

So, Madam President, for nearly 3 years the Metropolitan Washington Airports Authority has made it clear under two different chairpersons that they will not, or do not believe that they have the authority to do away with the parking places.

I think from a legal standpoint it could be argued in court as to whether they do or do not, but clearly they do not choose to act.

So, Madam President, I come to the floor on this issue because I have tried and exhausted every other avenue. I might also note that I was advised that the chairman of the Airports Authority Board of Review, Representative NORM MINETA, sent a letter to the Speaker of the other body approximately 2 years ago urging this policy be changed, and, of course, there was no action taken then.

I regret that the Airports Authority's board of directors continues to abide by this unfair parking policy in this manner, but the fact is that the continued existence of these privileges for Members of Congress is due to questionable pledges that were made by the Airports Authority board in the past.

As I mentioned, the former chairman of the Airports Authority board of directors informed me that he had personally promised hundreds of Members of Congress that the parking practice would not be changed.

It is an interesting admission, Madam President, but one that should not surprise anyone. Apparently officials of the Airports Authority quietly promised that special parking spaces, unavailable to the general public, would be preserved for Members at the same time that Members of this body were considering legislation that gave power to the board to operate National and Dulles Airport.

In addition to the fact that excluding the public from these parking areas is wrong, providing exclusive parking places to Members of Congress completely free of charge carries with it a considerable cost to the Airports Authority itself.

At National and Dulles Airports, the parking spaces that are reserved for Members of Congress are located very close to the terminals. These spaces are equivalent to the short-term spaces that costs our constituents up to $26 a day to use. There are approximately 124 parking spaces reserved at National Airport and 51 at Dulles Airport. Of the 124 spaces at National Airport, if they were open to the public and fully utilized at current rates charged to our constituents, they would garner over $1.175 million a year in revenues. If the lot at Dulles were open to the public and utilized at capacity, it would generate $484,000 a year in new revenues. This means that over $1.6 million in potential parking revenues to the Airports Authority is being lost each year because choice lots are being unjustly cordoned off to the public.

In addition to calling for the opening of congressional lots, this sense-of-the-Senate amendment states that no preferential parking privileges should be provided to Members of Congress and other officials in the future.

In deliberating the amendment, I would ask my colleagues to consider how the public provides for their own travel to and from Washington's airports without any special privilege to rely upon. Business people and recreational travelers consider taking one of the District's 8,000 taxicabs, use our multibillion dollar Metro system, or arrange for a ride from friends and colleagues. If they do decide to use a parking lot at National or Dulles Airports, they budget and economize in order to pay for that convenience.

The loss of revenues caused by the congressional parking has occurred at a time when the Airports Authority is receiving millions of dollars in taxpayers' funds each year. Instead of raising the substantial amounts of revenue that could alleviate the need for taxpayers' dollars, the Airports Authority is apparently content to abide by the status quo.

Madam President, I think it is appropriate at some point—perhaps right now—to mention that I appreciate how emotional this issue is. I have even received many verbal comments from my colleagues. I have even received written letters from even a Member from the other body who admonished me to get real.

I understand that there will be questions raised about my own personal practices and habits as to whether I use the congressional parking myself. I have not for over a year. That is an admission for the many years I did. There is a tendency in this town to somehow discredit the messenger if the message is not pleasing.

I will also admit and plead guilty to any charge that is leveled against me for using any other perk that the Congress has, in order to alleviate the Senate from having to undertake that part of the debate.

But the fact is that the American people feel, in a very strong fashion, that we have separated ourselves from them.

I do not pretend that this action alone, if agreed to by the Senate and the House, will significantly impact the increasing cynicism of the American people about Members of Congress. But I do think it is important for us to recognize that the American people are extremely cynical, disillusioned, and many times angry about what they view is a disconnect between Members of Congress and the American people.

Madam President, just this morning there was a poll that was written about, which I would like to quote from. It is an extensive poll. It is a two-part national telephone poll of 1,500 persons conducted in November and January, and it focused not only on attitudes towards Government, but on how voters felt about 50 proposed reforms.

The survey, in very dramatic ways, underscores how deeply cynical the American people remain about the political process and political leaders, said Stanley B. Greenberg, pollster for

President Clinton. While Mr. Greenberg hastened to add the President's approval ratings are on the rise, he acknowledged we are seeing Watergate levels of cynicism, and even higher levels. Frederic Steeper, pollster to former President Bush, stressed that the results of the poll were not just a knee-jerk, anti-Government reaction, but rather the latest evidence of the Nation's rising distrust of its own Government over the past 36 years.

The article goes on to say, Madam President, that Congress was singled out for particular criticism in the survey results. The most popular of all 50 proposals favored by 81 percent of respondents was a punitive measure to cut congressional salaries and benefits to let Members know that voters are serious about spending cuts. By contrast, a proposal to raise congressional benefits to encourage the best people to serve was favored by only 13 percent of respondents. And it goes on to add that term limits were especially popular, favored by 71 percent, et cetera, et cetera.

Madam President, again, I do not pretend that the passage of this amendment will somehow reverse a trend that, according to the people who make a great deal of money analyzing these perceptions, that has been going on for 36 years. But I do contend and I do allege that measures that we take in order to make Members of Congress just like the rest of our fellow citizens are desired by the people that I represent. And that is all this amendment is really about.

Usually, because pressure is brought to bear, in addition to publicity and a lot of rhetoric on the part of talk show hosts in America, the Congress has taken appropriate action concerning free haircuts, subsidized meals, the gymnasium, health care, et cetera.

If there is one phrase that gets applause in any town hall meeting I have been to all through America, it is the following: "We want the same health care plan that Congress has." Even for a dull speaker like me, that is the one sure-fire line that will get a lot of applause.

What does that mean, Madam President? It means that people believe that we should live like they do.

Again, I want to emphasize an important point one more time, because there may be people both on and off the Senate floor who will say that this amendment is some kind of cursory response to populist attitudes. I tried for 2 years in correspondence with the Metropolitan Washington Airports Authority to get them to take this action, without benefit of issuing any press releases, and without aggrandizement of any kind. But the fact is, they would not act. And the Airports Authority says they will not act unless Congress sends them a message.

This sense-of-the-Senate resolution will send that message on behalf of the U.S. Senate.

I do not hesitate to admit that there will be inconveniences if this reserved parking is done away with. There may even be a time when a Member of this body misses a vote or misses a plane. I deeply regret such possibilities, as a person who for 10 years has commuted back and forth literally every single weekend to my home State of Arizona, where my family resides.

I do not want to go on too much longer, but I hope we can get a voice vote on this issue to get it over with, and have it accepted by both sides.

If not, I must request the yeas and nays, which I will be prepared to vitiate at any time if both sides are willing to accept the amendment.

Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MCCAIN. Madam President, I do not intend to engage in debate on the issue. I believe the case is clear. This is an issue of fairness and equity for the public. I do not wish to inflame emotions any more than has already taken place. If I had advocated a declaration of World War III, I believe it would have probably evoked less emotion in my colleagues than this amendment has. So I am keenly aware of the sensitivity and their strongly held views on this issue.

At the same time, all I am asking for is a decision on the part of this body. Once it is rendered, I do not intend to bring this issue up again.

I yield the floor.

Mrs. FEINSTEIN. Madam President, I rise today in support of the amendment offered today by my colleague from Arizona that puts the Senate clearly on record in support of eliminating parking at National and Dulles Airports. My only regret is that this amendment is only a sense of the Senate and is not, in fact, binding.

It is impossible to explain to residents of this country why elected officials deserve or warrant the special perk of being able to pull into a busy parking lot at Dulles or National Airport—and get free parking at any hour of the day. It is time to ban this needless special perk.

In addition, at both National and Dulles, significant amounts of construction are currently underway. Traffic in and out is tremendous, and access to parking lots is tough, particularly on a busy Friday evening. Imagine the frustration that tourists—all of them a constituent of one Senator or another—must feel as they struggle with their luggage, get out of a parking lot bus and look over their shoulder to see an empty or half-empty parking lot marked with a sign that says: "Reserved Parking: Supreme Court Justices, Members of Congress, Diplomatic Corps."

I know that some of my colleagues in the House and here in the Senate will say that by having parking reserved at the airports, more business gets done here because less time is needed in traveling to and from planes. But for men and women anywhere else, if work or some other task keeps them late they do not have the option of zipping into their free parking spot at the movie theater or at the grocery store or at the ball park. Instead, most people face the option of catching that later movie, or missing the first couple innings of the game. Without free parking, we are faced with the option of catching that later flight. I am certain that that is an option all of us can live with.

I commend my colleague from Arizona for continuing to bring this issue before us, and I am pleased to support this amendment.

Mr. SPECTER. Madam President, I am voting against the resolution to eliminate the parking for Senators and others at National Airport because, despite my concern about the appearance of special treatment, the reserved parking saves taxpayers' money.

I have introduced and supported legislation to eliminate all Senate perks so that Senators pay the fair market value for everything we receive including, but not limited to, medical care, gym facilities, haircuts, and so forth.

Parking, however, is a legitimate business expense. Currently, this parking is provided at no cost to taxpayers. If the parking is eliminated and Senators use the commercial lot, it has been estimated that the cost to taxpayers would be more than $3 million.

Since I travel to and from Pennsylvania by train, I cast this vote to retain the Senators' airport parking even though I almost never use the lot. But I believe that as we take up these kinds of issues in our effort to reform Congress, we must not be afraid to make choices that are in the best interest of the taxpayer and the Congress, even though the appearance of such a decision might seem otherwise.

In voting against this resolution, I understand that it will be unpopular, probably misunderstood and possibly the subject of a negative TV commercial against me in a future campaign.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Madam President, the Senator from Arizona has indicated that he would be prepared to vitiate the yeas and nays in order to spare Senators from voting on the amendment that he has offered, with the proviso that his amendment be accepted. This Senator would strongly oppose accepting the McCain amendment. Therefore, it appears that we will have a rollcall vote on the McCain amend-

ment. If the vote is 99 to 1, and I would understand why Senators would feel constrained to vote in favor of the McCain amendment, this Senator will be the one who will vote against it.

Madam President, on its face the question of parking places at airports is perhaps the smallest issue that could come before the U.S. Senate.

It seems so small on its face, but, in fact, it is a very big issue that has been raised, and a very big issue that I believe should be debated, because I think that the whole thrust of the McCain amendment is something that is wrong. It is bad for the country. Therefore, I believe that we should just face up to it squarely, directly, and think about it and talk about it, and then, if the Senator wants to press to a vote, vote on it.

Part of our tradition as a country is to be skeptical about Government, and for good reason: We do not believe that Government is the be all and end all of the United States of America. We do not believe that life within the beltway is the heart of this country. We believe that the true America is out there somewhere in our States, in our communities, in our homes—not here in Washington.

So for that reason, the skepticism about Washington, and the skepticism about Government and Government programs is something that is very healthy. But cynicism about Government is not healthy. Cynicism is not the same as skepticism. Cynicism can be corrosive, and cynics tend to take the position that people in Washington really are some sort of malevolent force, some kind of different people who are engaged in some sort of hanky-panky. Cynics contend people in Washington are doing ruinous things to the country, and everything would be better if those people up there were not there or if they were different.

That kind of cynicism is constantly fanned by people who make it their business to fan the flames of that sort of cynicism. That is the nature of talk radio today. The nature of talk radio is to fan the flames of public passion, make people mad; make people mad about Government; make people mad about Washington; make people mad about those people up there, those politicians. So it is no wonder that the polls that the Senator from Arizona cites are as represented.

Ask the American people about Congress. "They are worse than used car salesmen."

Ask the American people about politicians. "Scumbags," they would say.

Ask them about various perks they perceive exist in Congress. "Oh, this is a terrible thing. Those people are milking us for all they are worth."

That is cynicism.

I submit that it is corrosive and that it is mistaken and that it is time to face up to it and start talking about it and not playing to it, not constantly playing to it, not constantly looking for opportunities to whip up those passions, to whip up the cynicism that is already there throughout the country.

So I believe that the issue that is raised is a big issue. It is beyond parking places. It is a big question about Government and the American people and how the two relate to each other. That is a very big question, and it is much more than the question of parking places.

Maybe it is a safe thing for me to be the one who raises it. I am, in a sense, a neutral observer. After 18 years in the U.S. Senate, I will be retiring at the end of this term. It does not matter much to me what the parking situation is from this point on at the airports. It does not matter to me what people are going to be saying in negative campaign commercials relating to parking, because I am not running again. So I am really a neutral observer.

But it is really important to me to talk about Congress and to talk about politics and to talk about the corrosive cynicism that I believe this amendment represents and plays to and helps create.

Let me begin by talking about the practical consequences of this amendment. People could say, "Well, we're concerned about balancing the budget." Right? "Therefore, this is money and somehow this is related to the budget and maybe we'll be better off for budgetary reasons."

The answer to that question, of course, is "no". The answer to that question is no. It is my understanding that the Congress does not, in fact, pay the airport authority for use of the space, so that the money that is spent for cab fare or parking places, or whatever else, to get to the airports would come out of the Treasury. So, if anything, this amendment would lose money, not make money.

If you really believe that the problem of a $4.5 trillion national debt can be reduced to parking fees—if anybody is silly enough to equate the two—then the nickels and dimes that we are talking about, relatively speaking, in this amendment would go the other way because people would be reimbursed for their transportation, including their parking.

Or, if we were rushing to get to the airport, we might ask some staff person: "Drive me over there. I don't have time to park the car." And that, in a way, would be a cost to the taxpayers. So if we are talking simply about cost—which, of course, is not what we are talking about, but I simply make that point—if we are talking about cost, then, if anything, this amendment will cost money; it will not create savings for the taxpayers.

But, of course, this amendment fundamentally is not about cost. It is about the idea that the public resents privilege. It is the thought that somehow Members of the U.S. Senate or Members of the Congress are a privileged group of people and that the surest way to stir up resentment against Members of Congress is to portray ourselves as privileged.

In a sense, it is a privilege to serve in the Congress of the United States. I have always believed that it is a privilege to serve in the U.S. Senate. It is the greatest privilege I have ever had in my life, and I am immensely proud of it and grateful for the opportunity of being able to spend a very substantial part of my life serving in public office and, in particular, serving in the U.S. Senate. In that sense, it is a privilege.

But let us not confuse privilege with the idea that somehow it is a cushy job, because I think that is what the cynics would like to believe: This is a cushy job; this is a lush job of some kind; this is the lap of luxury; this is ease to be in the U.S. Senate; it is ease to serve in the Congress; it is a luxury and we are privileged people and we should be treated like everybody else.

Well, are we like everybody else? What is the typical work week in the United States? It used to be 40 hours a week. I believe that now it is somewhat less than 40 hours a week. Forty hours a week was the standard work week. Is there anybody in the U.S. Senate who works 40 hours a week?

Most people work an 8-hour day, or at least they did. I think that is declining somewhat: 9 to 5. The whistle blows at 5 o'clock. Does the whistle blow here at 5 o'clock? Where are people here at 5 o'clock in the afternoon? Where are people at 6 o'clock in the afternoon? Where are the people at 7, 8, 9 at night?

Your wife calls you up at 6:30 in the evening and says, "Are you going to be home?"

"I don't know."

"When will you be home for dinner?"

"I don't know."

"Will you be home?"

"I don't know."

"Will we be able to do something next week?

"I don't know."

This is not a 40-hour workweek. Does anybody want an 80-hour workweek in this country? Or a 100-hour workweek? That is more like it. How about the airport spaces? Is that some kind of luxury, to be able to park at the airport? Think about it. To be able to park at the airport. Does that seem to be a great luxury item to park at National Airport?

Well, here is the usual situation. You are working in the Senate. Generally, two nights a week perhaps, maybe three, you are working late. Sometimes you start work at 8 or 8:30 a.m., you may have a breakfast meeting at 8 o'clock in the morning. You are going right through the day. You have something to do during the lunch hour. You are going from meeting to meeting.

You are working into the evening. And then the Senate is to recess sometime on Friday.

Probably noontime or in the early afternoon there will be an announcement, "No more votes." You want to go to the airport. You have to go to the airport because you have commitments back in your State. So how many people have stood here on Fridays, looking at the clock, asking when the debate is going to close. "When are we going to have the votes?" Lining up here at the front desk to vote early, to leave immediately after casting your vote, to rush to the airport—not to proceed in a leisurely pace but to rush to the airport—in order to catch a plane, because the plane is leaving in a half an hour and you have to get to the airport.

It happens every week. It happens every week we are in session. There are Senators pacing the floor of the Senate saying, "When can we get out? We have to catch a plane."

Is it a luxury to have a place to park? What are you supposed to do, shoot in a pneumatic tube over to National Airport? You have to get on the plane.

Why, Madam President, do you have to get on the plane?

So many times when I am in the airport in Missouri, constituents will see me in the airport and they will say to me, "Oh, good, you are getting some time off." It is a nice thing to say. It is a nice, pleasant greeting. It is wonderful; you are getting some time off.

Time off? What time off? Who would like to spend weekends the way Senators spend weekends? Here is how we spend weekends. We rush to the airport, get on the plane, and we go out to our States. We have speeches. We have town meetings. We live out of suitcases. We stay in hotels.

A State such as Illinois, represented by the Presiding Officer, is a very large State. My State of Missouri is 250 miles across. It is a large State. You go back and you spend one night in St. Louis, one night in Springfield, one night in Kansas City. That is not a vacation. It is work. So many times I felt at the end of a working weekend, I am glad to get back. This schedule seems like rest compared to what we are doing on our weekends. It seems like rest.

What we consider to be weekends off are not the weekends that we have to rush to National Airport or to Dulles. The weekends that we consider weekends off, when we talk to each other—Do you have the weekend off?—we mean when we do not have to go to the airport. When we do not have to go to the airport.

It is said by the Senator from Arizona we should live like everybody else. Who else lives this kind of life? The one thing that you have to say about Members of the Senate is they work hard. The one thing you have to say about Members of the Senate is that it is a high-energy job. One question to ask ourselves is, well, say you have a plane to catch, say you have a plane to catch on a Friday because you have a commitment in your State on Friday. You have a plane to catch, and you are here hoping to catch that vote.

Why are you hoping to catch that vote? You are hoping to catch that vote because you take your voting record seriously. Most people in the Senate want to vote 95 percent of the time, or more. Some Members of the Senate do not like to miss any votes at all. That is not a lack of conscientiousness. That is real conscientiousness about doing what you are paid to do, about voting.

So the idea that it is somehow a privilege to have a parking place, when you are rushing from the floor of the Senate to catch a plane to get back to work for a weekend, just is not true. It just is not true. It plays to a popular myth, and it just is not true.

It is hard work. It is not an 8-hour day.

Private life? Well, does the ordinary person put out a financial disclosure? No. I was speaking last night to a very revered former Senator about the difference between being in private life and being in the Senate.

This person served with great distinction in the Senate. Really, I think every Senator who served with this individual would say that this was one of the great Senators. And he was telling me about the difference between public life and private life.

I do not say all of this to complain, because I am not complaining. I promised myself when I announced my own retirement that the last thing I wanted to do was to complain, because I have considered it to be a wonderful privilege to have had the opportunity to serve in the Senate. I have enjoyed it, and I still do. It is interesting. It is the most stimulating thing I can think of. It is very, very exciting and very enjoyable. It is a privilege to be able to stand here right now and debate in the Senate. I am going to miss it when I leave. I am going to miss it, no doubt about it.

But the idea that it is somehow cushy or that they are a bunch of poohbahs sitting around doing nothing is just false. It is just plain false.

It is said that, well, Members of Congress are out of touch. Members of the U.S. Senate are out of touch. Let us get them a different parking place and put them in touch.

Madam President, the last thing that Members of the Senate are is out of touch. The idea that Members of Congress are out of touch is totally fallacious. We have never been so in touch. Why? Part of the reason is the ease of transportation. Part of the reason why we are in touch is that, unlike the old days when Members of the Congress would show up in January and leave in June and never go back to their States, now you can go back all the time. That is one of the reasons we are in touch, is that our constituents can come here—and they do so every day—and we can go out to our States, as many of us do each week.

We all use the public opinion polls, the focus groups, and all of these ways of staying in touch. Some may argue that we are in touch to a fault, that we have lost the sense of statesmanship because we are so afraid of offending everybody, that we are so much in touch that we do not necessarily do the job of good government.

Think about how we are going to vote on this particular amendment. I suppose that one of the reasons for voting in favor of the McCain amendment is concern about being pilloried when you are back home. Everybody is going to know about it. "You voted for a special parking place." We are not out of touch. We have never been more in touch than we are now.

I would also like to add that, in the opinion of this Senator, the idea that Members of Congress are the object of scorn and ridicule, that we are somehow ripping off the country by various perks and by pay, is not only something that is erroneous and ferocious cynicism, but it is a distraction from the real work that has to be done for our country.

Let me give the Senate an example. The Presiding Officer and I are members of a commission of 32 members. The point of the commission is to try to address the problem of the entitlements and whether anything can be done to control the entitlements. All of us who serve in Congress know that the explosion of the entitlements makes the budget something that we just cannot deal with. We know that there is no alternative to dealing with the entitlements in a responsible fashion other than a budget that just continues to spin out of control.

We have not been able to address the problem of the entitlements because it is unpopular to do so. People want to believe that somebody else is to blame. People want to believe that there is some solution to the problem of the Federal budget that does not involve them. "Do not cut my program. Why, it is ridiculous to cut my program. How dare you cut my program. Cut something else." And the something else is always, always the same—waste. It is as though there is a line item in the budget that is called "waste." Other examples of "something else" to cut are foreign aid, which is less than 1 percent of Federal spending, and always, always congressional pay.

Last winter, Senator Bob KERREY and I, who have been asked by the President to cochair this commission on entitlements, were invited to a conference in Pennsylvania that was convened by Congresswoman MARJORIE MARGOLIES-MEZVINSKY. The subject of

the conference was the entitlements. The President came and spoke to that conference. Senator KERREY spoke to the conference, and I spoke to the conference. I tried to talk about the importance of dealing with the entitlements.

I said to the audience—in order to show how people want, a quick answer, and the cheap answer and the answer that does not involve them—"What most people would like to hear us say is the way to fix the budget is to cut congressional pay." Madam President, do you know what the audience did when I said that? They burst into applause. I was using it as a ridiculous throwaway to try to indicate the quickie solution, the easy solution, that we have to be realistic, that it is not going to work. When I mentioned it as an example of something that cannot work and that is ridiculous, the audience burst into applause with the very words "cut congressional pay." Of course, it is an applause line. Of course, that is what people want us to do; cut pay, cut perks.

It is a national mindset now. We want to be victims. We want to be victims of somebody up there. We want to be victims. We, the little people, want to be the victims who are being abused and taken advantage of by people who were up there somewhere. "Oh, please, let us be victims. Please let us find somebody else to blame, somebody to resent. Give us somebody to resent. Why, Members of Congress, let us balance the budget by taking their parking places from them." It is a whole industry of building resentment.

A number of years ago I was participating in some debate in the Senate. I cannot remember the subject. But I was participating in some debate and assaulting the Senate for something or other, some kind of criticism of us. After I finished the speech, the greatest guardian of the honor and the tradition of the Senate that we have, our President pro tempore, Senator BYRD, took me aside very gently. He did not even refer to my speech. But he talked about Senators who "soil their own nests." I have always remembered that because it is true. It is true.

(Mr. CAMPBELL assumed the chair.)

Mr. DANFORTH. Mr. President, I think we should be proud of serving in the U.S. Senate. I believe that we should view this body as something that is representative of the American people. We talk about gridlock. Yes, I guess there is gridlock. But is that not representative of the people? Are the people giving us a clear message to get on with the business of balancing the budget, of cutting popular programs? No. Is there a consensus on what to do about health care or the other big issues? There really is not.

So, yes, there is disagreement here. That is the reason for having a Republican form of government, to build in that disagreement. I think we do represent the American people, certainly not perfectly, but well. I think we should say so and not pander to resentment. I believe that is what this amendment does. So I am going to vote against it. I do not have much to lose because my political days are over, but I am going to vote against it, and I am going to insist on a vote if the managers have any idea of accepting this dreadful amendment, so that I, at least, will have the chance to vote against it.

Ms. MOSELEY-BRAUN addressed the Chair.

The PRESIDING OFFICER. The junior Senator from Illinois is recognized.

Ms. MOSELEY-BRAUN. Mr. President, I would like to first thank and congratulate Senator DANFORTH for probably one of the better speeches I have heard in my short time here as a Member of the Senate.

I am speaking extemporaneously, Mr. President. As you know, I was just in the chair, and I had occasion to hear the speech. He really has touched on some chords that struck near and dear to me as a junior Member of the Senate. He has been here 18 years, and I daresay I have been here barely 18 months. He is ending his career, and I am just starting mine. Frankly, I have a tendency to attract thunderbolts of controversy anyway, and this may be one.

Senator DANFORTH, if you are the one vote, I will be No. 2 against this amendment. I want to talk a little bit, and pick up and associate myself with everything that Senator DANFORTH said, because I think he has properly characterized the issue.

I would like to add some personal perspectives, as a new Member of the Senate, with regard to the larger issue and how it relates to this amendment.

When I ran for the Senate, it was with a sense of real regard and respect for this institution; with a sense of joining the greatest deliberative body in the world; it was with a sense of extreme honor and privilege to be a part of this—privilege, in the classical sense of the word, that somehow or another by coming here, I was doing my duty by contributing and giving back something of what the Lord had given me, the privilege that I had been given in my life, that I could somehow serve the community and I can help my fellow person, I could somehow contribute something to the debate and to the resolution of issues, and try to make things better for my children and for all of the children in this country, and indeed in the world.

In fact, in spite of the popular myth around why I decided to run for the Senate, the real reason, the real critical moment in my decisionmaking to do this was a conversation with my son, who was at the time 15. When I had been approached to run, Matthew and I had talked about it over dinner. I said, "I am being asked to run for the U.S. Senate; what do you think of that?"

He asked me, "Well, Mom, what are your qualifications?" He has had the benefit of a good education. He said, "You know, Mom, your generation left this world worse off than you found it."

I was appalled by that. So for the rest of dinner, we debated whether my generation had done its job and whether we had done what we were supposed to do, to pass on to the next generation the great heritage and legacy that this country stands for. After the conversation, I said, "Matthew, that is it, whether I win or lose is not as important. I am going to go out here and try."

As it turned out—obviously, I am here—I won the election and became a Member of the Senate.

Senator DANFORTH is exactly right in talking about the kind of workload which, again, I was not really expecting. Nobody told me. In fact, they had talked about the Senate workload as though you work full-time and then get time off. I have worked as hard here as I have on any job in the private or public sector. We work on weekends, and we work in the evenings.

We work evenings because that is when people come together and have the benefits, parties, and meetings. As Matthew said earlier in his young life when asked, "What does your mother do?" His answer was, "She goes to meetings and parties." I do more than that. I go to meetings and parties, and both of those things are work. When friends call me and ask, "What would you like to do for recreation," I can think of nothing finer than sitting at home in front of a fireplace with somebody I really like and not having to engage in the work of this, because all of that is work.

In addition to the meetings and parties, though, Mr. President, also, in the words of the former Mayor Daly of Chicago, "We plant trees." That is to say that we are held accountable for results and for what we do in office. We cannot just get on a talk show and we cannot just get on the radio and talk about what is wrong with the world. We have a responsibility to try to make it right. We have a responsibility to do something, and what we do, we are held to account for every part of that. And that is as it should be, Mr. President.

Accountability is what this institution has to be about. But when you talk about accountability, I think it is important that you are honest about what you are accountable for. The issue, the current issue that has given rise to this debate is about parking spaces. Senator DANFORTH is exactly right. It is more than just parking spaces. It is about feeding into a malevolent attitude that says somehow

the people in the U.S. Senate, in the U.S. Congress, are all out looking to cut corners and get special perks and privileges—somehow or another to be different than the American people, the average folks who are out there working on a job and having a life.

Well, Senator DANFORTH has already pointed to whether or not we are exactly in the same situation, in talking about the difference in the time schedules and time commitment, having to be here for votes and the like. He talked about that. I would like to add another aspect of the difference. I have friends who work on jobs, they work from 9 until 5, they have their lives, and they have some privacy in their lives. What they do is their business. I have friends, even at my age, still riding motorcycles—and I notice the presiding officer, who rides a motorcycle. That makes him probably unique in this body. But they can go and hang out and have a good time, and they can say and do what they want.

Mr. President, we not only file financial disclosures, as Senator DANFORTH talked about, we publish our income taxes in many instances. Income taxes are considered to be private by most Americans. People go to great lengths to make sure nobody knows the bottom line on their 1040 or what the details are. We publish ours. Every aspect of our lives is open to scrutiny, comment, conversation and criticism—sometimes warranted, sometimes not, but you are out there. You put yourself out for the public to have absolute ownership of what you do in your life, whether it is going on vacation, or whatever.

I took a vacation after being elected, before I took office and was sworn in. It wound up being news in my hometown. The day I came back home, my face was the whole front page of the newspaper. "Vacation over." I do not know how many of my friends wind up having commentary about what they do on their vacation between jobs, but that is part and parcel of this—and I accept that—as to what this job is about.

I recognize that in taking this responsibility, I have to be accountable not only in my public life, in the sense of what votes I take and what I do, but also in my private life as well. So when I make a decision in my private life, just as something to wind up as fodder for the talk shows and for the television, as to whether or not I am supporting airstrikes in Bosnia, I recognize that that is part of the playing field, and I am not complaining, either. Senator DANFORTH says it is not about complaining because that is just where we are in our modern time. That is OK, because I guess it is OK for us to be accountable.

I suggest to you, Mr. President, and to my colleagues who are listening to this, it is not OK to be accountable in the context that is fraught with falsehood. And the falsehoods here are the perceptions that somehow or another, we are taking advantage of the American people; that they are victims of our malevolent dealmaking; that somehow or another, this institution—this institution—is something to be reviled and criticized instead of honored, respected, and regarded with the kind of—not support; that is almost the wrong word—but regarded with the kind of respect for what it is that we do and what it is that we; in fact, what we represent and what our job description, if you will, calls for.

You know, to talk about the one without talking about the other, talking about parking spaces and not talking about responsibilities, it seems to me is to set a perception and to set a frame of mind that is destructive of our democracy, in the final analysis. Democracy means the will of the governed; that the governed decide and elect Representatives; they send people here to make decisions in behalf of the public good and the common interests.

Most of us, if not all of us, and I presume all of us, try our level best to live up to the high ideals of our democratic system. In so doing, we sacrifice privacy; we sacrifice our dinner at home with the family; we sacrifice things that normal people, ordinary folks who work 9 to 5, take for granted.

I daresay it does not get much play on the talk shows that the Senate is in session at 12 o'clock at night. It does not get much play on the talk shows that Senators are required to be accountable for what they do on their vacations. It does not get much play on the talk shows that we really are trying and working hard even if things are not all right. It does not get much play on the talk show that we are held accountable for what we do, and we cannot just get away with the glib sound bites and the conversation, and make millions of dollars for doing so.

I would add, Mr. President, that does not titillate, that does not stimulate the kind of cynical debate that unfortunately has permeated the air and permeated our public conversation over the last decade and more.

So, Mr. President, I submit to you that, as Senator DANFORTH has pointed out, the debate here is really larger than parking spaces. It really is more than parking. It is about this institution. It is about restoring regard and respect for Government in our democracy.

To get us back to the point where people understand that we are only here because the American people sent us here, and we are here to do a job and we are doing our best in most instances to do that job, and in any event, whether we do a good job or not, we are going to be held accountable, weighed if you will, in an election for what it is that we do here, and there are mechanisms in place.

And so having a parking space, or whatever other—I mean, I have not been here long enough to know what all the perquisites are. I suppose I am just figuring it out. But the fact is that a parking space at the airport is not something that somehow or another represents some rip-off of the American people. This is not something that is something. As Senator DANFORTH again rightfully pointed out, if anything, taking away the parking spaces is going to cost more money than not.

And so what you have is something that is counterproductive in terms of cost; something that feeds into the most cynical elements and cynical aspects and views about this institution; something that really propagates a fraud, in my opinion. And I do not mean the idea propagates fraud. I have worked many nights, being by myself, a woman traveling back and forth, and I go back to my home State just about each weekend. My boy is still back there, so I go back home, I suspect, about every week. I work on those weekends. I know of nights when I left here dashing out to catch the last plane back home by myself.

So I get to the airport by myself at night, running luggage behind me, trying to get to that airplane. We have all done it. We all know what that is like.

The fact that I can park the car and go in and leave it there for the weekend until it is time to come back to work was something that was helpful. Would my life end without it? Absolutely not. Most of the time, I do not use that parking space. But I daresay the fact that it is there allows me to do my job and does not penalize me further for being in it.

I came home—you see, you get confused after awhile. I came back to Washington on Monday, having gone from Chicago, IL. Senator DANFORTH talked about how large my State is. It is a huge State. Illinois is kind of in the middle of the country, and it is a long State. It is 600 miles long. I had gone from the northern end of the State down to southern Illinois to do an announcement that morning. I caught a 7:15 a.m. flight and tried to get down there in time for the announcement. I made the announcement in southern Illinois and went to the St. Louis Airport to come here to Washington. I got off the plane at Washington.

As I walked out of the gate, out of the parking area, going to catch a cab—I did not have a car and I was going to try to come to work on my own, going to catch a cab—I found myself being photographed. So I turned around to a young lady, and I said, "Why are you taking my picture?" She said, "Well, we are doing another story on congressional parking perks." I said, "Why are you taking my picture?" She said, "You are a Senator, so we thought we would take a nice picture of you."

She was a pleasant enough person, so I did not really get into it.

But the point I ask is how many ordinary people walk out of an airport and have someone snapping photographs of them? Does that go with the job description? I do not think so. Does that mean there is going to be a story? I do not know. It could well be a story: CAROL MOSELEY-BRAUN, you know, going to the congressional parking lot. In fact, I was going to catch a cab.

So I just think, Mr. President, and again I had not intended—and I daresay I suspect Senator DANFORTH had not either expected—to hold forth on this amendment. But I was sitting there in the chair, and it just struck such a nerve. It was just like: When is this Congress-bashing going to stop? When are we going to stop allowing people to propagate this fraud? It is selling false impressions to the American people which, in the final analysis, degrades and demeans the institution and becomes the functional equivalent of shooting yourself in the foot.

The American people want better Government. The whole idea, it seems to me, is to get the best people you can in it, not to make it unattractive, to make it so that honor and duty, and concepts of doing good for the common interests, those kinds of concepts, get buried in the hoopla, in the hype, in the talk-show conversation that I believe the pending amendment feeds into.

So, Mr. President, I took a few minutes to make some personal observations. I say again they are not in the way of complaint. I went into this with my eyes open, and frankly I have been absolutely thrilled and honored to serve in this institution, for all the personal costs it is taking.

Where else could I talk about these issues? I have a bill I was going to introduce this morning, but I will do it later on today, providing money to rebuild schools, education. Then someone comes out and talks about what is going on in Bosnia. Yesterday, we talked about Haiti. I mean where else could I do that?

I realize with the honor of this job and the excitement of this job, there are going to be downsides. But I do not mind downsides in terms of those things that are legitimate. But I do resent the propagation of a falsehood, of a false impression, and I particularly resent what the continuation of that trend, of that propagation, is doing to this great institution. This is the greatest symbol of democracy in the world. It will only be respected by the rest of the world to the extent that we respect it.

I daresay, Mr. President, I do not believe that this pending amendment is consistent with respect and support for this institution, the individuals notwithstanding. And I, therefore, join Senator DANFORTH and will be the No. 2 two vote against it.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada [Mr. REID] is recognized.

Mr. REID. Mr. President, I am the chairman of the Legislative Branch Appropriations Subcommittee and I have a responsibility, as chairman of the Legislative Branch Appropriations Subcommittee, to make sure that every year there is enough money to run the affairs of the legislative branch, which includes far more than the Congress. Therefore, I am here to tell everyone listening, whether it be a Member of the U.S. Senate, a member of the staff or a member of the public, that if this sense-of-the-Senate resolution passes, it will cost more money to run the legislative branch of Government.

So everyone should understand, this is a cosmetic change. It is not one that will save the American taxpayers money. It will cost the American taxpayers money.

I would, first of all, say that I have always had great respect and admiration for the senior Senator from the State of Missouri. As we know, he is an ordained minister. He has been a person that has spoken out on issues that he believes are important, many times notwithstanding the party pushing a particular issue.

But I would say to the senior Senator from the State of Missouri, this certainly speaks about the legend of JACK DANFORTH. This man is not running for reelection, but yet he is here on the Senate floor speaking out on an issue that perhaps a lot of people wish they had the intestinal fortitude of a JACK DANFORTH to speak out on an issue of this measure.

So I personally commend and applaud, as I have done on many occasions on the floor, not only the Senator, but the people of the State of Missouri who sent this Senator to represent them in these last many years to the greatest debating body in the history of the world.

Mr. President, I do not live in Washington, DC. I live in the State of Nevada. The State of Nevada is my home and always has been. I was born in Nevada.

I am here on a temporary assignment from the people of the State of Nevada. Yes, I have a home here in the Washington, DC, area, because I have five children and I need a place to live. But it is temporary. I have always known it is temporary. There is not a day that goes by that I do not think of my home in Nevada.

That is the way it has always been back here. The people that serve in the Senate represent the various States of our country. I represent the State of Nevada. I go home as often as I can. My family spends most of its time here because that is where the kids go to school most of the time.

I am not going home this weekend because I graduated from George Washington University School of Law and I am going to get some kind of an award on Saturday. I am going to be here next weekend. The next weekend, I am going home; the next weekend, I am going home.

I have things to do at home that are important for the people of the State of Nevada. I am not going home to see a show on the Las Vegas Strip. I am going home to do the people's business of the State of Nevada.

But while I am here, I work for the people of the State of Nevada. I get 4,000 pieces of mail a week and I respond, with my staff, to all that mail. I work extremely long hours, as do all Members of the U.S. Senate.

I came here early this morning. I will go home late tonight. During the time that I am here, I am not going to be watching movies. I am going to be working every minute. I do not take a nap. I will work every minute that I am here. I will be on the telephone. I just left a hearing that took all morning, very important to the people of the State of Nevada. The Nevada delegation is waiting for me now at a meeting that started at 12 o'clock.

The point of the matter is, every minute of my day is scheduled and it will be on the weekends that I go home. I need to get home as quickly as I can, not for my personal convenience, but because I have work to do for the people of the State of Nevada.

Now it is all—I am trying to find the right word—foolishness to think that we are going to close the airport to the ambassadorial corps of the world that serves in the United States. I think that would be rude. I think it would be very unfair to the diplomats that serve from all over the world in Washington as Ambassadors to the United States. To have an assignment to be an Ambassador to the United States is the height of an ambassadorial career—to serve as an Ambassador to the United States. I mean, should we not provide them parking where we have major parking spots, not all over the country, but where they serve in Washington, DC? I do not think that is asking too much, that we provide parking to the ambassadorial corps.

The parking at Dulles and National serves the Supreme Court of the United States, the ambassadorial corps. The spots are very limited. There are many times that they are full. But my point is, the airport facility is not for Members of Congress, the little spots they have blocked off. They are for the ambassadorial corps, the Supreme Court, and Members of the Congress.

Mr. President, if these things are closed—and if that is the will of the Senate, we will all go along with it, we have to—I repeat for the third time, it will cost the taxpayers of the State of Nevada, the State of Colorado, the

State of Missouri, the State of Alabama, the State of Iowa, every State in the Union more money. Why? Because, the rest of you have to get to the airport some way. I usually take my car and drive myself to the airport and carry my bags to the luggage counter. I have no problem with that.

Under the rules, I could charge any mileage for my car while going back and forth. I do not do that. But I park there when I go to either Dulles or National.

Mr. President, the point is, when I go to the airport, I am going on the business of the people of State of Nevada. I am not going on a vacation. And this business is no different than a lawyer going to represent a client or somebody selling products for a company. We are in the business of the country. That is why we are parked there. We are trying to be more efficient for the people of this country.

Now if it is the will of this Senate that they do not want that to make my office more efficient, to make me more efficient for the people of the State of Nevada, then fine. But it will cost more money.

Roughly, it will cost probably about $3 million more each year if you add up all the cabfares to National and Dulles Airports from around this area. And this does not include, Mr. President—and I am sorry I was not able to come up with that figure—but there will on occasions, I am sure, that you will be at your office and you need staff to take you to the airport. I am sure that would happen on occasion. Nothing wrong with that. You are going on business.

The point of the matter is, the cost of eliminating this parking at the airport is significant.

As chairman of the Legislative Branch Subcommittee, we will try to find the money someplace, if that is what you want. But we are going to have to cut someplace else to do that. We may have to cut in the Library of Congress. We may have to cut staffs that write letters to constituents and consider waiting 2 or 3 weeks or a month or 6 weeks for a letter; you may have to wait a couple of months.

There will have to be some cuts made if, in fact, the Senate decides to make this cosmetic change, because it is only cosmetic. It is only cosmetic in nature.

My friend from Illinois has left the floor. I would say to her, she said she is new here and she does not know all the perquisites that are here. She will not have to look very far, because there are not many that I am aware of, and I have been here going on 8 years.

I was here several years, Mr. President, and finally I asked the barber who I pay $10 to get my haircut here in the Senate, I said, "Mario, every place I go, at almost every townhall meeting, they talk about free haircuts. Where are they?"

I do not know the exact date. I think he said they stopped in 1963, or some date like that—1967; 25, 30 years ago. No more free haircuts. I guess there was a time here when Members of the Senate and House got free haircuts. Well, that has long since gone.

This is a cosmetic change. I repeat, as chairman of the Legislative Branch Subcommittee that appropriates money for this body and other entities within the legislative branch, if the Senate feels this is important of course we will go along with it. But everyone should know it is going to cost taxpayers of the United States more money to do this.

The PRESIDING OFFICER. Who seeks recognition? The Senator from Alabama [Mr. HEFLIN] is recognized.

Mr. HEFLIN. Mr. President, let me first congratulate the distinguished Senator from Missouri [Mr. DANFORTH] for approaching this sense-of-the-Senate resolution from an overall situation of asking when are we going to stop beating ourselves to death pertaining to certain items which might be termed a fringe benefit. I think the distinguished senior Senator from Missouri said something that needed to be said, and I congratulate him, and I congratulate Senator REID and Senator MOSELEY-BRAUN for their statements.

I did not intend to speak on this, but I have heard their speeches and I think I at least ought to make some comment. Basically, what we are talking about is time. Since the Senate has grown over the years, and the world that we live in presents more and more complex issues, the question has arisen: How do you save time in order that you might devote priority time to the most serious issues?

I just look here and I see three staff people for the majority leader. Why are they here? They are here to save the time of the majority leader while he conducts other business. Why do I have staff members on my Subcommittee on Courts and Administrative Practice in the Judiciary Committee? Why do I have a counsel who has spent, I would say, 80 percent of his time this year on this one bankruptcy bill? The object is to save me time in order that I might look after my duties in agriculture, in national defense, and in all of the various issues that confront a Senator in representing his State. Each staff member that has been added to a Senator's staff has been added with the idea that it saves him time and allows him to be more efficient in his overall function.

The idea of having a parking place at the airport is to allow a saving of the Senator's time so he or she does not have to prematurely leave the Senate while he or she is working on issues of great importance to his or her constituents. A Member of Congress can spend an additional 20 minutes working on whatever the issue he may be involved with and drive straight to the airport and not have to waste time in searching for a parking place.

It also means his car is close by when he arrives back in Washington from his home State, it saves him some time, in many instances where he must rush to the Chamber for a floor vote. I think overall it will save about 40 minutes time of a Senator, that he can devote to his business, to his State, and to other important duties.

Some say that can be done on weekends or something else. But most Senators never get away from their work. I do not think I have spent a weekend away from my work this year or in the last past 12 months. I am working all the time, and there is always something that is going on.

If I go home, even at a recess, and even if I do not have a town meeting or a speech, my home phone is ringing and my office in the State has things that they want me to do. There is very little free time for any Senator. I think when you look at this, this is an issue of time savings. The whole concept of all supportive staff, the concept of having a parking place or anything else, is to save time in order to devote more attention to serious duties than the distraction of having to get to the airport. A Senator can spend more time in the office and in working for your State and for your Nation.

I think Senator REID, awhile ago, mentioned the matter pertaining to the cost issue. If you add up the time, it would be a substantial amount more than the $3 million he mentioned.

I also think Senator DANFORTH talked about the duties and the matters here, and I might say it is true of the legislative staff. I do not think there is a staff person who deals with legislation in any Senator's office who works less than a 40-hour week. They stay here much more than 40 hours and assist their Senators in legislative matters. In my office my staff members are usually here until 7, 8, or 9 at night, and they work hard. This idea that Senators and the staff do not work long hours is the most erroneous impression that is given to people throughout the country by the press.

I thank Senator DANFORTH for bringing this up and making his speech in the manner he has done. It is remarkable. I look around and there are one or two Senators whose health is not too good. But they come. I notice, for many of them, their steps are not as spry as they used to be. But they feel an obligation to duty and they come and they work. I can remember a Senator who is no longer here who came in because he wanted to vote. He was on the other side of the aisle. Perhaps some of us said, "Well, they brought him in from the deathbed in order to vote." But he felt a duty that he had to his country and to the issue involved that they got him out of his hospital bed and brought him here.

In how many private businesses would you have seen that? I can cite many other instances which have similarly occurred. I can remember a Senator who has passed away, who would come here and discharge his duty, as painful as it might have been—in a wheelchair on several occasions.

So I agree with Senator DANFORTH. This is not a cushy job. It is a job we all appreciate. A job we honor. And it is a honor to serve in the U.S. Senate. But the false idea that this is a cushy job, as Senator DANFORTH brought out, needs to be told to the American people through many, many different ways.

Again, I think that the issue is a question of timesavings. Timesavings has brought about computers. Are you going to do away with computers calling them a perk? The typewriter was a timesaver. Are you going to say, all right, it was a mistake to have a typewriter? Senators used to have pens with feathers and quills they would write with, but modern technologies have allowed us to become more efficient with our time.

In closing, I feel that Senator DANFORTH has done a great service by speaking out on this particular issue, and I congratulate him on his courageous stand on this resolution now pending before this body.

UNANIMOUS-CONSENT AGREEMENT

Mr. HEFLIN. Mr. President, I ask unanimous consent that the McCain amendment, which is No. 1632, be laid aside until 1:15 p.m. today; and that at 1:15 p.m. today, without intervening action, the Senate proceed to vote on the amendment, with no second-degree amendments in order to the McCain amendment No. 1632.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The McCain amendment will be laid aside until 1:15.

Mr. HEFLIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CRIME BILL

Mr. SPECTER. Mr. President, in the absence of any other Senator in the Chamber seeking recognition on the pending amendment, I have sought recognition to speak relatively briefly on the pending crime legislation which is now in the House, the crime bill having been passed by the Senate, a bill which will soon be in a House-Senate conference committee.

I have sought recognition to express my distress, noting yesterday's action in the House to remove provisions to reform the procedures on Federal habeas corpus, the Latin term meaning to produce the body, which is the way that defendants convicted in State courts challenge their death sentences in Federal courts after they have been upheld in the State courts.

I am concerned that neither the Senate nor the House crime bill will be addressing this very important issue because currently, the way the Federal appeals process works, under habeas corpus there are lengthy delays, up to 17 years, in carrying out death sentences, which has eliminated the effectiveness of the death penalty as a deterrent.

Based on my experience as district attorney of the city of Philadelphia for two terms, 8 years, I am convinced that the death penalty is a deterrent. I say that because of so many cases which I have seen where professional burglars would not carry weapons for fear they will kill someone in the course of a burglary and face a first degree felony murder charge, or young hoodlums who would not carry guns in the course of robberies because they were fearful that they would kill somebody and face the potential first-degree murder charge for felony murder.

The death penalty has really been the flagship. It has been, as the extreme penalty, the guidepost of the seriousness of the criminal justice system.

Now, in making this presentation, Mr. President, I am aware that there are many people in the United States who are opposed to the death penalty, although the current polls show that more than 70 percent of Americans do favor it. I believe that the death penalty has to be imposed very, very carefully and that we have to be sure that there is no overtone of racial injustice; and we have to be sure that the tough, tight guidelines of the Supreme Court of the United States, under which the aggravating circumstances of the crime are measured against the mitigating circumstances, are complied with, where the Supreme Court in the course of the past quarter of a century has laid down very stringent rules for the imposition of the death penalty that are sound.

When I was district attorney of Philadelphia and had more than 500 homicides a year, I would not allow an assistant to ask for the death penalty without my personal approval. Currently, however, we have some 2,800 people on death row, and the death penalty is carried out on such a small number of people, 38 last year, it is not a realistic deterrent to violent crime. We know that to be an effective deterrent, punishment must be swift and must be certain. And not only is the death penalty not currently an effective deterrent, but as the most visible mark of our criminal justice system it really makes the criminal courts a laughingstock, telling defendants that society is really not at all serious about law enforcement and punishment for crime.

I offered an amendment to reform habeas corpus procedures, which was taken up separately as the Senate considered its crime bill, but that measure was tabled. It is my hope, Mr. President, that we will revisit this subject soon, because I think there are ways to be fair to defendants, to guarantee them adequate counsel, but not to have these cases languish for up to 17 years, where it is unfair to everyone involved. It is unfair to the victims' families, who wait and wait and wait, when the incident of a murder of a loved one is not brought to a close.

It is also unfair to the defendants. An international court of justice, the European Court on Human Rights, has decreed that the long delays in carrying out death sentences in this country are unfair to defendants themselves, that the a lapse of some 8 or 9 years or more constitutes cruel and inhumane punishment of criminal defendants. That arose in a case where the State of Virginia sought extradition from the United Kingdom, and the European Court on Human Rights said it would not allow the extradition to Virginia unless Virginia authorities made the commitment not to impose the death penalty.

So there are strong indications of unfairness to all those involved in the current process, and certainly unfairness to society when the death penalty is not imposed as the laws of 37 States say that it should be imposed.

I want to make a brief comment, Mr. President, on the pendency of the crime bill with respect to mandatory minimum sentences. I believe that mandatory sentences are appropriate in some circumstances. But I believe that our current legislative proposals are overdoing it. There is a great reliance on the glib phrase "three strikes and you are out," which I suggest is overly simplistic.

When I was district attorney of Philadelphia, I sought to have the Pennsylvania habitual offender statute imposed to give life sentences for criminals who had three or more serious offenses. I found as a practical fact of life in criminal courts that when these cases came up, the judges were unwilling to impose the life sentence because they felt that the defendant as an individual had not been dealt with fairly. The hallmark of American justice—and I think it is sound—is that the administration of the criminal laws are individualistic. That is why I proposed in the budget resolution—I will be brief, because I see my colleague, Senator LEAHY, on the floor, the very distinguished former prosecuting attorney from Burlington. I think Senator LEAHY and I could rewrite the crime code. We might have something that many people could agree with.

But I want to make this point, and I shall it make it briefly with respect to the issue of "three strikes and you are out".

I succeeded in offering an amendment on the budget resolution to transfer $100 billion from government consultants to programs for literacy training and job training for convicts in prison because I think it is no surprise that when a functional illiterate leaves jail without a trade or skill, that that person goes back to a life of crime.

I think we have to teach inmates how to read and write and offer them a basic trade skill. If the person then goes back and commits a second offense, and has another chance at his particular rehabilitation, and goes back and commits a third offense, then I think it is fair for society to ask for a life sentence.

The public does not want to hear about rehabilitation for individuals, although I think there is a point to that. But I think the public is willing to have realistic rehabilitation to take individuals out of the crime cycle so that person will not commit repeated offenses, recognizing that some 70 percent of violent crimes are committed by career criminals who commit two or three robberies or burglaries a day.

I think the public would be willing to support literacy and job training for inmates so that the stage is set if a person comes back as a career criminal, having committed three or more major offenses, that that individual then would be subject to and would receive a life sentence to take that person out of society.

In concluding, Mr. President, I do not know how many people are watching on C-SPAN 2, but I would like to say that we Members of the Senate read our mail. So do Members of the House of Representatives. I think there is not sufficient public awareness of the point that I made about the carrying out of the death penalty. When the public hears so much about the crime bill, there is a lack of understanding that in the Senate, the provision to curb Federal appeals in capital cases and to cut down on the delays associated with them was excluded. And just yesterday, in the House of Representatives, that provision was again excluded.

So I would ask people who are watching on C-SPAN today, who agree with the proposition that the death penalty ought to be carried out because it is a deterrent, and people who disagree with the long delays of carrying out the death penalty of up to some 17 years, and the attendant unfairness to the victims' families—and also, as the European Court on Human Rights found, to the defendants—that they will take the time to write to their Representatives and Senators, and try to put some public pressure, public expression of sentiment, behind this very, very important issue.

I thank the Chair. I yield the floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER (Mr. DORGAN). The Senator from Vermont [Mr. LEAHY].

CHILD NUTRITION VERSUS COCA-COLA

Mr. LEAHY. Mr. President, I thank my friend from Pennsylvania for yielding. I have a couple of points I would like to make.

As chairman of the Agriculture, Nutrition, and Forestry Committee, I have stood on the Senate floor and defended child nutrition programs hundreds of times.

I have seen child nutrition programs go through all kinds of attacks. I have fended off attacks from drug companies, petty crooks, and price fixers, budget cuts, criticism of all kinds. I never thought I would see the day that I would have to defend our child nutrition programs, under heavy attack from none other than the Coca-Cola Co., an American corporate giant. Coca-Cola is out to nail our kids and child nutrition programs right along with them. The crooks, the cheats, the price fixers, all the others, I can understand. But Coca-Cola? And what have they done? They have launched a stealth campaign to kill the "Better Nutrition and Health for Children Act of 1994." This corporate giant is taking on our children.

They know—and unfortunately so do too many in Congress—that children do not vote; children do not hand out large sums of PAC money; children cannot hire expensive lobbyists. Corporate giants have the PAC's, the lobbyists, the money, all the things the children do not have. But I think this is a fight that children should win over Coca-Cola. I am always going to put the welfare of children ahead of corporate giants.

The Better Nutrition and Health for Children Act of 1994 is a good bill. The legislation is supported by: the American Academy of Pediatrics; the American Heart Association; the American Cancer Society; the Children's Defense Fund; the American School Food Service Association, and a lot of other groups that care more for people than profits. But Coca-Cola is lobbying hard against the bill. The groups that do want this bill know that good eating habits developed in childhood have a major affect on lifelong health. But what Coke is doing is running to schools, and they are asking them to lobby Congress to not pursue my bill.

While this is not illegal, you have to ask what motivates them. Coca-Cola is not acting as if they are motivated by the health and welfare of children.

My office has become aware of three documents circulated by Coca-Cola. There is an internal strategy memo detailing methods to defeat provisions of my legislation. There is a letter to State education officials requesting their support in opposing my bill. And they have even—to show how helpful they can be—sent out a form letter for opponents to send to their Senators. Basically, what they are saying is: You may interfere with Coke's profits so do not do anything to help child nutrition.

Mr. President, to add insult to injury in this case, the Coca-Cola Co. is relying on misinformation about my legislation. They are resorting to scare tactics instead of honest debate. The Coca-Cola memorandum of February 24, 1994, contains four inaccuracies.

First, the Coca-Cola memo notes:

> In compliance with the law, soft drinks are never sold in the dining area of the school during the designated meal periods. Hence, they do not directly compete with items in the "a la carte" lunch line or on the school menu.

That is not true. Soft drink sales can compete with lunches since they can be sold right outside the cafeteria in vending machines or sold before lunch in the cafeteria.

Second, the memo notes that:

> Soft drinks can only be sold in schools provided that the revenue derived from the sales be used to fund school activities, which otherwise would not be funded.

That is not true. Under current Federal law soft drinks can be sold whether or not the revenue is used to fund school activities.

Third, the memo notes that:

> Allowing the sale of competitive foods on campus during non-lunch hours reduces the likelihood that students will leave campus to purchase such products. This is a serious safety issue which greatly concerns school administrators and parents.

The argument that selling sodas in vending machines will solve a "serious safety issue" represents a major overstatement.

Fourth, the memo notes that soft drinks are "USDA-approved competitive foods."

That is not true. USDA regulations list soda drinks as competitive foods of minimal nutritional value and thus can not be approved for sale in the cafeteria during lunch service.

At one time, Mr. President, somebody wanted to list ketchup as a vegetable in our school lunch program. Now it appears that Coke wants to list Coca-Cola as a nutritious beverage. Both ideas are total baloney, and we all know that.

My bill leaves the decision of whether to sell soft drinks up to school service authorities and education departments. They ought to decide, not a corporate giant in Atlanta. As a Vermonter, I want my Vermont schools to be making this decision, not some high-priced lobbyist working out of a multi-billion-dollar corporation.

Coke claims that they have the "understanding" of eight Senators on the Agriculture Committee. I find that

hard to believe—not only that they do not support this legislation, but nobody has come up and said they want to put Coke ahead of children.

I do not know why Coca-Cola is so afraid. If they would check their facts and get their information correct, they would understand that my bill makes it clear that in the interest of child nutrition, schools—not the Federal Government—are entrusted with the authority to choose or to ban the sale of soft drinks and junk foods from vending machines during school hours.

They should not try to bully these individual school boards, individual educational institutions.

Coca-Cola is a corporate giant. It is their job to sell soda and make money, not to improve the health of children. Their fancy commercials and big-time advertising raked in profits of $2.1 billion last year alone. Our job as U.S. Senators, when we are developing a nutrition bill, is to protect children. We should be protecting children, not an individual corporation.

My bill clarifies schools' authority to promote healthy eating choices for children. No company should be dictating to schools that they have to sell soda and junk food as though it is a nutritional food. It is not.

I think child health is the issue. Coca-Cola apparently thinks money is the issue. The Coca Cola Co. made $2.1 billion last year; I guess that was not enough. I hope in this case it is not the corporate giant that wins out, but that the children of America win out. Their health is of much greater value to us than selling a few more cans of Coca-Cola.

I ask unanimous consent that the letters and memos sent out by the Coca Cola Co., which I consider out and out misstatements of fact, be printed in the RECORD at the end of my statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE COCA-COLA CO.,
Atlanta, GA, February 28, 1994.

DEAR MS. ——— ———: We are writing to ask for your help regarding the possibility of further government restriction on the sale of soft drinks in schools. There is currently a new piece of legislature called "The Better Nutrition & Health for Children Act" that has been introduced by the Agriculture, Nutrition, and Forestry Committee to the Senate. This act is intended to help states ban "competitive foods" at a stricter level than federal law currently requires.

We believe that current law already provides states and local boards with the authority to either allow or prohibit competitive foods and that this act (if it is passed) will serve to further restrict the sale of soft drinks in school. This will obviously, reduce the much needed revenues to schools that are generated from the sale of soft drinks. We believe that the Senate needs to better understand the impact that this act could have on these revenues.

If you agree with us, we are asking you to send a letter to Senator Leahy (Chairman of the ANF committee), as well as to your senators, requesting that they not pursue this Act. We have attached a sample letter to help you as well as a list of senators (and addresses) who serve on the Agriculture, Nutrition and Forestry Committee. We've also attached a summary of this Act and our concerns about it to give you further background.

Your letters are needed immediately (as well as letters from other administrators, teachers or coaches who are willing to write), since this legislation is under consideration now. If you are willing to write, please send a copy to me so that we can keep track of the response from the education community.

Best regards,

BONNIE J. PRUETT.

Attachment.

FEBRUARY 1, 1994.

Hon. _____,
U.S. Senate, Washington, DC.

DEAR SENATOR _____: As the Senate Agriculture Committee prepares to consider legislation reauthorizing child nutrition programs, which are paramount to the proper learning and development of the nation's school children, I wanted to let you know about a particular provision of a bill pending before the Senate which causes us great concern.

As I understand it, Section 208 of The Better Nutrition and Health for Children Act (S. 1614) would urge states to ban the sale of "competitive" foods in schools. These vended products are sold on campus, but not at the same time or place as school lunches and breakfasts. They provide a tremendous source of revenue used for extra-curricular activities. Were it not for the fact that this revenue augments our budgets, many of the programs outside the normal classroom atmosphere would not be possible. These programs allow students to explore their creativities, provide much needed fitness, teach good sportsmanship, and instill the values of teamwork and dedication.

School systems are well aware they have the authority to decide whether or not to allow the sale of competitive foods on campus. It is, and should remain, a local decision made by those most familiar with the school's needs. It seems both unnecessary and potentially confusing for the Federal government to go beyond current law and possibly misdirect schools in this regard.

In these days of financially strapped states and communities, please don't send another edict from Washington that has the potential to further challenge our resources. I urge you to support efforts to drop Section 208 from S. 1614.

Sincerely,

———

COCA-COLA MEMORANDUM,
February 24, 1994.

To: Mr. Earl T. Leonard, Jr.
From: Bryan D. Anderson.
Subject: School lunch.

As you know, we are closely monitoring the Better Nutrition and Health for Children Act (S. 1614) introduced by Senator Leahy. The following is a review of this issue.

BACKGROUND

Current Federal regulation prohibits the sale of "competitive" foods at the same time and place of a Federally-funded school lunch or school breakfast program. In addition, states and local schools have the authority to exceed the Federal rule and further restrict or prohibit the sale of competitive foods on school property.

CURRENT PROPOSAL

Senator Leahy (D-VT) has introduced legislation, S. 1614, that would reauthorize the Child Nutrition Act. S. 1614 contains a provision (Section 208) titled, "Clarification of Authority to Ban Junk Foods." This section would direct the USDA to encourage states to exceed Federal authority by banning competitive foods from the schools and even provides model language for states' use in taking such action. (Section 208 language does not appear in House legislation.)

ARGUMENTS

There is no need for this new provision. Current law already provides states and local school boards the authority to allow or prohibit the sale of competitive foods, in fact, eight states already have. (See attached.)

Local school authorities know best what is appropriate for their students. There is no evidence they are ignorant of their authority over competitive foods, nor any evidence that there decisions, have in any way, negatively impacted the school lunch program.

In compliance with the law, soft drinks are never sold in the dining area of the school during the designated meal periods. Hence, they do not directly compete with items in the "a la carte" lunch line or on the school menu.

USDA-approved "competitive foods," such as soft drinks, can only be sold in schools provided that the revenue derived from the sales be used to fund school activities, which otherwise would not be funded. These include band uniforms, sports team uniforms, school yearbooks, etc. In this age of financially strapped school districts, that face revenue shortages and then eliminate extra curricular activities as a result, the Federal government should not issue ultimatums from Washington which only worsen the situation.

Allowing the sale of competitive foods on campus during non-lunch hours reduces the likelihood that students will leave campus to purchase such products. This is a serious safety issue which greatly concerns school administrators and parents.

OBJECTIVE

Section 208, titled "Clarification of Authority to Ban Junk Foods" should be dropped in its entirety from S. 1615.

Action—We have met with eight Senate offices names deleted on this issue, and they have been understanding of our concerns with Section 208. We are working on getting letters supporting our position from Secondary School principals from as many committee member states as we can. The Association of Secondary School Principals is helping us with the letters as well as providing data to validate our argument that the revenue derived from the sale of soft drinks is crucial to the funding of extra curricular activities.

There is a hearing on this issue on Tuesday, March 1, and mark up is not expected until spring.

BANKRUPTCY AMENDMENTS ACT OF 1993

The Senate continued with the consideration of the bill.

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

AMENDMENT NO. 1633

(Purpose: To amend section 524 of title 11, United States Code, to authorize the issuance of supplemental injunctions)

Mr. HEFLIN. Mr. President, I send an amendment to the desk on behalf of

Senator BROWN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. HEFLIN], for Mr. BROWN, for himself and Mr. GRAHAM, proposes an amendment numbered 1633.

Mr. HEFLIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 211, after line 21 insert the following:

SEC. 222. SUPPLEMENTAL INJUNCTIONS.

Section 524 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(g)(1)(A) After notice and hearing, a court that enters an order confirming a plan of reorganization under chapter 11 may issue an injunction to supplement the injunctive effect of a discharge under this section.

"(B) An injunction may be issued under subparagraph (A) to enjoin persons and governmental units from taking legal action for the purpose of directly or indirectly collecting, recovering, or receiving payment or recovery of, on, or with respect to any claim or demand that, under a plan of reorganization, is to be paid in whole or in part by a trust described in paragraph (2)(B)(i), except such legal actions as are expressly allowed by the injunction, the confirmation order, or the plan of reorganization.

"(2)(A) If the requirements of subparagraph (B) are met at any time, then, after entry of an injunction under paragraph (1), any proceeding that involves the validity, application, construction, or modification of the injunction or of this subsection with respect to the injunction may be commenced only in the district court in which the injunction was entered, and such court shall have exclusive jurisdiction over any such proceeding without regard to the amount in controversy.

"(B) The requirements of this subparagraph are that—

"(i) the injunction is to be implemented in connection with a trust that, pursuant to the plan of reorganization

"(I) is to assume the liabilities of a debtor which at the time of entry of the order for relief has been named as a defendant in personal injury, wrongful death, or property-damage actions seeking recovery for damages allegedly caused by the presence of, or exposure to, asbestos or asbestos-containing products;

"(II) is to be funded in whole or in part by the securities of 1 or more debtors involved in the plan of reorganization and by the obligation of such debtor or debtors to make future payments;

"(III) is to own, or by the exercise of rights granted under the plan could own, a majority of the voting shares of—

"(aa) each such debtor;

"(bb) the parent corporation of each such debtor; or

"(cc) a subsidy of each such debtor that is also a debtor; and

"(IV) is to use its assets or income to pay claims and demands; and

"(ii) the court, at any time pursuant to its authority under the plan, over the trust, or otherwise, determines that—

"(I) the debtor may be subject to substantial future demands for payment arising out of the same or similar conduct or events that gave rise to the claims that are addressed by the injunction;

"(II) the actual amounts, numbers, and timing of such future demands cannot be determined;

"(III) pursuit of such demands outside the procedures prescribed by the plan may threaten the plan's purpose to deal equitably with claims and future demands;

"(IV) as part of the process of seeking approval of the plan of reorganization—

"(aa) the terms of the injunction proposed to be issued under paragraph (1)(A), including any provisions barring actions against third parties pursuant to paragraph (4)(A), shall be set out in the plan of reorganization and in any disclosure statement supporting the plan; and

"(bb) a separate class or classes of the claimants whose claims are to be addressed by a trust described in clause (i) is established and votes, by at least 75 percent of those voting, in favor of the plan; and

"(V) pursuant to court orders or otherwise, the trust will operate through mechanisms such as structured, periodic or supplemental payments, pro rata distributions, matrices, or periodic review of estimates of the numbers and values of present claims and future demands or other comparable alternates, that provide reasonable assurance that the trust will value, and be in a financial position to pay, present claims and future demands that involve similar claims in substantially the same manner.

"(3)(A) If the requirements of paragraph (2)(B) are met and the order approving the plan or reorganization was issued or affirmed by the district court that has jurisdiction over the reorganization proceedings, then after the time for appeal of the order that issues or affirms the plan of reorganization—

"(i) the injunction shall be valid and enforceable and may not be revoked or modified by any court except through appeal in accordance with paragraph (6);

"(ii) no entity that pursuant to the plan of reorganization or thereafter becomes a direct or indirect transferee of, or successor to any assets of, a debtor or trust that is the subject of the injunction shall be liable with respect to any claim or demand made against it by reason of its becoming such a transferee or successor; and

"(iii) no entity that pursuant to the plan of reorganization or thereafter makes a loan to such a debtor or trust or to such a successor or transferee shall, by reason of making the loan, be liable with respect to any claim or demand made against it, nor shall any pledge of assets made in connection with such a loan be upset or impaired for that reason;

"(B) Subparagraph (A) shall not be construed to—

"(i) imply that an entity described in subparagraph (A) (ii) or (iii) would, if this paragraph were not applicable, have liability by reason of any of the acts described in subparagraph (A);

"(ii) relieve any such entity of the duty to comply with, or of liability under, any Federal or State law regarding the making of a fraudulent conveyance in a transaction described in subparagraph (A) (ii) or (iii); or

"(iii) relieve a debtor of the debtor's obligation to comply with the terms of the plan of reorganization or affect the power of the court to exercise its authority under sections 1141 and 1142 to compel the debtor to do so.

"(4)(A)(i) Subject to subparagraph (B), an injunction under paragraph (1) shall be valid and enforceable against all persons and governmental units that it addresses.

"(ii) Notwithstanding section 524(e), such an injunction may bar any action directed against a third party who—

"(I) is identifiable from the terms of the injunction (by name or as part of an identifiable group); and

"(II) is alleged to be directly or indirectly liable for the conduct of, claim against, or demands on the debtor.

"(B) With respect to a demand (including a demand directed against a third party who is identifiable from the terms of the injunction (either by name or as part of an identifiable group) and who is alleged to be directly or indirectly liable for the conduct of, claims against, or demands on the debtor) that is made subsequent to the confirmation of a plan against any person or entity that is the subject of an injunction issued under paragraph (1), the injunction shall be valid and enforceable if, as part of the proceedings leading to its issuance, the court appointed a legal representative for the purpose of protecting the rights of persons that might subsequently assert such a demand.

"(5) In this subsection, the term 'demand' means a demand for payment, present or future, that—

"(A) was not a claim during the proceedings leading to the confirmation of a plan of reorganization;

"(B) arises out of the same or similar conduct or events that give rise to the claims addressed by the injunction issued under paragraph (1); and

"(C) pursuant to the plan, is to be paid by a trust described in paragraph (2)(B)(i).

"(6) Paragraph (3)(A)(i) does not bar an action taken by or at the direction of an appellate court on appeal of an injunction issued under paragraph (1) or of the order of confirmation that relates to the injunction.

"(7) This subsection applies to an injunction of the nature described in paragraph (1)(B) in effect, and any trust of the nature described in paragraph (2)(B) in existence, on or after the date of enactment of this subsection.

"(8) This subsection does not affect the operation of section 1144 or the power of the district court to refer a proceeding under section 157 of title 28 or any reference of a proceeding made prior to the date of enactment of this subsection.

"(9) Nothing in subsection (g) shall affect the court's authority to issue an injunction (including an injunction that requires claims and demands to be presented for payment solely to a trust or any other type of court approved settlement vehicle) which is entered pursuant to an order approving a plan of reorganization.

"(10)(A) If, upon a motion by a representative appointed by the court identified in paragraph (1)(A) to protect the interests of persons with demands of the kind described in paragraph (2)(B)(ii)(I) or on its own motion, the court finds, as a result of enhanced credible estimating procedures with respect of such demands, inequities in the distribution process of a trust of the nature described in paragraph (2)(B), the court shall have, in addition to the powers over the trust that the court may lawfully exercise under applicable nonbankruptcy law, plenary equitable power to reform, restructure, or modify the trust, the procedures under which it operates, or the timing, manner, and amount of distributions to its beneficiaries and other rights of the beneficiaries, giving special attention to cases presenting exigent circumstances, as it shall determine to be fair, just, and reasonable in light of the circumstances prevailing at the time of reformation, restructure or modification.

"(B) Nothing in this paragraph shall be construed to grant the court authority to modify or in any way alter the debtor's obligation to comply with the terms of the plan of reorganization.".

Mr. BROWN. Mr. President, the proposed amendment would codify a court's existing authority to issue a permanent injunction to channel claims to an independent trust funded by the securities and future earnings of the debtor. In plain English, this means that when an asbestos-producing company goes into bankruptcy and is faced with present and future asbestos-related claims, the bankruptcy court can set up a trust to pay the victims. The underlying company funds the trust with securities and the company remains viable. Thus, the company continues to generate assets to pay claims today and into the future. In essence, the reorganized company becomes the goose that lays the golden egg by remaining a viable operation and maximizing the trust's assets to pay claims.

Without a clear statement in the code of a court's authority to issue such injunctions, the financial markets tend to discount the securities of the reorganized debtor. This in turn diminishes the trust's assets and its resources to pay victims. The amendment is intended to eliminate that speculation so that the marketplace values the trust's assets fairly.

This amendment is about growing the pie available to victims. The result could be significant. In the case of one such trust, for instance, every dollar increase in the value of the reorganized company's stock translates to $96 million more for compensating asbestos victims.

Some suggest that claimants should be able to sue the reorganized debtor again. Such suits would fly in the face of the fundamental rationale of chapter 11, that a reorganized debtor emerges from bankruptcy free and clear other than the liability set by the plan. Unfortunately, the very speculation that a claimant may be allowed to sue the company hurts its ability to maximize the trust's assets to pay victim's claims.

Essentially, this amendment means more money for the victims of asbestos exposure. It also means added stability and job security for the thousands of workers employed by reorganized companies. This amendment is a good public policy in that it not only serves the interest of reorganizing the debtor but in that it maximizes amount existing and future asbestos claimants can recover.

Mr. GRAHAM. Mr. President, this legislation provides companies who are seeking to fairly address the burden of thousands of current asbestos injury claims and unknown future claims, and who are willing to submit to the jurisdiction of the U.S. Bankruptcy Courts, a method to pay their current asbestos claims and provide for equitable treatment of future asbestos claims. It will preserve the going concern value of those companies, thus providing a source of payment for those future claims. The legislation recognizes the inherent equitable power of the bankruptcy courts to provide for equitable treatment of all of a debtor's creditors, including those having claims arising out of asbestos products. This legislation also recognizes the bankruptcy courts' injunctive powers to implement fair distribution of payments to claimants. The amendment recognizes the need to provide an on-going source of payment for future asbestos-products claims against a debtor within the fabric of a centralized claims mechanism.

It is the uncertainty of the number and amount of these future claims, and the need to implement a procedure that recognizes these future claimants as creditors under the U.S. Bankruptcy Code, that necessitates this amendment, as well as the need to provide some assurance that funds will be available to pay future claims. To those companies willing to submit to the stringent requirements in this section designed to ensure that the interests of asbestos claimants are protected, the bankruptcy courts' injunctive power will protect those debtors and certain third parties, such as their insurers, from future asbestos product litigation of the type which forced them into bankruptcy in the first place.

Mr. President, upon the establishment of a trust to pay asbestos claims, the bankruptcy court may enjoin claims against the debtor and certain third parties alleged to be liable for the asbestos claims against the debtor, channeling such claims to the trust for payment. The section provides such trust and injunction be implemented only in a case where the numerous safeguards are met. There must have been a representative appointed to protect the interests of future claimants. An affirmative vote of approval by a 75-percent supermajority of the affected asbestos claimants must occur. There are still additional procedural safeguards to ensure that a reorganized debtor, and the trust created, in fact provide a meaningful and viable method of payment of asbestos claims, including future claims. The trust's assets and income are to be used to pay present and future claims. It is to be funded in whole or in part by the securities of one or more debtors involved in the plan of reorganization and by the obligation of such debtor or debtors to make future payments. It is to own, or by the exercise of rights granted under the plan could own, a majority of the voting shares of the debtor or its parent or a subsidiary debtor.

A bankruptcy court that implements such a trust and the injunction directing asbestos claims to the trust for payment must determine that in fact the debtor will be subject to substantial future claims which cannot then be determined as to amount, numbers and timing; that the terms of the injunction are fully disclosed to those voting for the plan and trust, and that the claimants affected by the trust vote by a 75-percent affirmative supermajority.

The bankruptcy court must also determine that the trust will operate through mechanisms that provide reasonable assurance that it will value and be in a financial position to pay present and future claims of a similar nature in substantially the same way.

If all of the foregoing criteria more specifically set forth in the amendment are met, the bankruptcy court may approve the plan and the trust and may enjoin claims against the debtor and against certain third parties identifiable from the injunction's terms, such as the debtor's insurers. By providing a trust to pay claims and an injunction channeling the present and future asbestos claims to that trust, the debtor and third parties who are alleged to be liable for the asbestos claims against the debtor will be encouraged to participate in a system that will maximize the assets available to pay asbestos claims, present and future, and provide for an equitable distribution and method of payment.

Mr. HEFLIN. Mr. President companies faced with extensive asbestos or other mass tort liability have a limited range of alternatives. Some defendant companies choose to litigate claims individually. Other parties have sought resolution of their present and future liability through claim aggregation and mass settlements. Faced with liabilities in excess of assets, others are forced to file for bankruptcy.

For companies forced to file bankruptcy any plan of reorganization must contain a mechanism to address equitably the debtor's liability to all creditors, including mass tort claims—both those whose injuries are manifest and those who, although already exposed, will not manifest any inquiry until sometime in the future. Without that mechanism, liquidation may be inevitable and little or nothing would be left to compensate future claimants.

To ensure that all latent disease claimants are compensated equitably, bankruptcy courts have approved reorganization plans providing for the establishment of a trust charged with the resolution of both present and future claims and funded by the securities and future earnings of the reorganized debtor. To that end, courts have closed the door on any additional liability (over and above that prescribed by the plan) for the reorganized debtor for the claims covered by the trust.

The injunction legislation would codify a court's existing authority to close that door by issuing a permanent in-

junction that channels claims to an independent trust funded by the securities and future earnings of the debtor. The reorganized company becomes the goose that lays the golden egg by remaining a viable operation and maximizing the trust's assets to pay claims.

The injunction provision is simply about growing the pie available to pay victims. Without a clear statement in the code of a court's authority to issue such injunctions, the financial markets tend to discount the securities of the reorganized debtor. This in turn diminishes the trust's resources to pay victims. The provision is intended to eliminate that speculation so that the marketplace values the trust's assets fairly.

The higher the value of the stock, the more value for the victim's trust. In the case of one such trust, every dollar increase in the value of the reorganized company's stock translates to $96 million more for compensating asbestos victims.

Some parties have suggested that claimants should be able to sue the reorganized debtor again. Such suits would fly in the face of the fundamental rationale of chapter 11, that a reorganized debtor emerges from bankruptcy free and clear other than the liability set by the plan. Unfortunately, the very speculation that a claimant may be allowed to sue the company hurts its ability to maximize the trust's assets to pay claims.

Essentially, the provision means more money for the victims of asbestos exposure or other mass torts. It also means added stability and job security for the thousands of workers employed by the reorganized companies.

Last Congress, the Senate approved this provision as part of a larger bankruptcy bill passed 97 to 0. The injunction is supported by several former asbestos manufacturers, the independent victims' trusts created to pay claims, and the key members of the asbestos trial bar. Enactment of this provision is critical to ensuring that a trust's assets and its ability to pay victims are maximized.

Mr. President, this amendment has been agreed to on both sides, and there is no objection to it, and I urge its adoption.

Mr. CAMPBELL. Mr. President, at the outset, I emphasize my support for the Brown-Graham injunction amendment. A lot of work over many months—years—has gone into the effort to fashion this compromise between the bankrupt producers, plaintiffs, unions, and third party nondebtors.

Upon reflection though, I ask if the procedure crafted here might serve as a model for other producers confronted with the same claims and issues and who have not sought protection under bankruptcy. As you know, over 15 companies previously engaged in the production and manufacture of asbestos and asbestos containing materials have filed for bankruptcy. Few have emerged from that process, and a number have completely gone out-of-business.

In those instances where other producers of such materials meet all of the criteria contained in the amendment but have not filed under chapter 11, perhaps a mechanism to reach a just, responsible, and expeditious disposition of their pending liability while preserving the viability of the former manufacturers could be established. Obviously such a concept would also cover third tier companies which specified in engineering designs, supervised the installation or actually conducted the installation of such materials.

Would my colleague from Colorado be willing to support the exploration of such a concept as this legislation moves through the process and support the result in conference?

Mr. BROWN. I want to thank the Senator for his support of this effort and for the amendment. Yes, I think the thought and effort that has gone into fashioning this provision may well hold the essence of a procedure that has relevance to other parties faced with the same situations. If this procedure can serve as a model for other parties without exigencies, pain, and dislocations of bankruptcy, I would join with my colleague in encouraging and supporting such an effort and look forward to the results.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1633) was agreed to.

Mr. HEFLIN. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 1632

The PRESIDING OFFICER. Under the previous order, the Senate is taking a recorded vote at 1:15 on the McCain amendment No. 1632.

The Clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Ohio [Mr. GLENN] is necessarily absent.

I further announce that the Senator from Alabama [Mr. SHELBY] is absent due to illness.

I also announce that the Senator from Michigan [Mr. RIEGLE] is absent because of a death in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 44, nays 53, as follows:

[Rollcall Vote No. 94 Leg.]

YEAS—44

Bingaman	Feinstein	McCain
Boren	Gorton	McConnell
Boxer	Graham	Moynihan
Bradley	Gramm	Nickles
Brown	Grassley	Pressler
Bryan	Hatch	Robb
Burns	Hutchison	Roth
Byrd	Kempthorne	Sarbanes
Chafee	Kennedy	Sasser
Cohen	Kerrey	Smith
Conrad	Kerry	Stevens
Coverdell	Kohl	Warner
Craig	Lautenberg	Wellstone
D'Amato	Lieberman	Wofford
Feingold	Mack	

NAYS—53

Akaka	Exon	Metzenbaum
Baucus	Faircloth	Mikulski
Bennett	Ford	Mitchell
Biden	Gregg	Moseley-Braun
Bond	Harkin	Murkowski
Breaux	Hatfield	Murray
Bumpers	Heflin	Nunn
Campbell	Helms	Packwood
Coats	Hollings	Pell
Cochran	Inouye	Pryor
Danforth	Jeffords	Reid
Daschle	Johnston	Rockefeller
DeConcini	Kassebaum	Simon
Dodd	Leahy	Simpson
Dole	Levin	Specter
Domenici	Lott	Thurmond
Dorgan	Lugar	Wallop
Durenberger	Mathews	

NOT VOTING—3

Glenn	Riegle	Shelby

So the amendment (No. 1632) was rejected.

Mr. REID. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arizona [Mr. DECONCINI].

Mr. DECONCINI. May I make an inquiry of what the pending amendment is?

The PRESIDING OFFICER. The committee reported substitute for the bill is currently pending before the Senate.

Mr. DECONCINI. Is it open for amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. DECONCINI. Mr. President, I want to offer an amendment, but if there is some agreement here, I would be glad to get in line.

The PRESIDING OFFICER. The Senator from Arizona has the floor.

Mr. DECONCINI. Mr. President, I first want to compliment the Senator from Alabama and the Senator from Iowa for getting this bill put together. This is not an easy task by any means. I had a little bit to do with this, having chaired that Judiciary Subcommittee prior to Senator HEFLIN taking it over. I did a bankruptcy reform bill. It is a hard, hard bill to get together and I appreciate the job he has done.

AMENDMENT NO. 1634

(Purpose: To provide additional trustee compensation)

Mr. DECONCINI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. DECONCINI], proposes an amendment numbered 1634.

Mr. DECONCINI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 160, insert between lines 6 and 7 the following new section:

SEC. 116. ADDITIONAL TRUSTEE COMPENSATION.

Section 330(b) of title 11, United States Code, is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end thereof the following new paragraph:

"(2) The Judicial Conference of the United States shall prescribe additional fees of the same kind as prescribed under section 1914(b) of title 28, to pay $15 to the trustee serving in such case after such trustee's services are rendered. Such $15 shall be paid in addition to the amount paid under paragraph (1).".

Mr. DECONCINI. Mr. President, this amendment would increase the compensation for chapter 7 private trustees by $15, but only in those chapter 7 cases where there are no assets. The 1978 amendment to the Bankruptcy Code placed the administrative role in bankruptcy cases in the hands of private panel trustees. The U.S. Trustees Program is responsible for supervising the private trustees.

There are over 1,700 chapter 7 panel trustees in this country. The duties and responsibilities of panel trustees have grown considerably. But the trustees' compensation has not kept pace. Trustee compensation is fixed by statute. In cases where assets are recovered approximately 5 percent of the chapter 7 cases trustees receive a small percentage of the assets distributed to the creditors.

S. 540 actually improves chapter 7 trustees' compensation in asset cases by providing a sliding scale for payment based upon the amount dispensed to creditors. S. 540, however, does not provide for an increase in no-asset cases, which now accounts for 95 percent of the chapter 7 cases.

What my amendment would do is increase the level of compensation for the panel trustees $15, from $45 bringing it up to $60. I believe this is a modest increase.

I understand the concern of the managers of the bill as to the cost and where do we get the money to pay for the increase. Panel trustees have not had an increase in 10 years, believe it or not, since 1984. The panel trustees perform a wide variety of tasks in connection with the bankrupt estate. They are responsible for establishing a case file, attending statutory meetings of creditors, examining the debtors under oath, answering creditors' inquiries, and filing reports with the courts or U.S. trustee.

Trustees are responsible for filing tax returns for the estate, and for paying taxes incurred by the estate. Private trustees also uncover hidden or concealed assets.

Mr. President, $45 is not fair or adequate compensation to administer a bankruptcy case. The National Association of Bankruptcy Trustees has conducted a detailed survey of bankruptcy trustees covering various issues, including trustee compensation, and of the approximate 110 responses, 79 percent stated they could not administer a no-asset case for $45.

This amendment is needed to ensure that private trustees are adequately and fairly compensated. It will also provide some incentives for qualified individuals to serve as trustees. This in turn will help improve the function of the bankruptcy process, which is the intent, after all, of the underlying bill.

Concern has been raised about how to fund the $15 increase in compensation. It will cost somewhere between $9.5 million and $10 million, and I have suggested a number of ways to the judicial conference.

I first recommended increasing chapter 7 filing fees $15 to pay for this raise. Currently the filing fee is $130; this would increase it to $145. However the filing fee was raised $10 last year, so there is some objection about raising it again so soon.

There are other ways to raise the necessary funds. An attorney admission fee, or practice fee for attorneys practicing in the bankruptcy court, could be imposed. I do not see any problem with user fees for those who use the courts, in this case bankruptcy lawyers.

Chapter 11 maintenance fees could be slightly increased. Xeroxing charges could be increased, or modest increases in other existing fees may raise the necessary amount. The judicial conference is authorized by statute to raise fees to pay for the operation of the bankruptcy court. So this amendment would direct the judicial conference to use its discretion in determining how the $15 increase is paid for.

The fact of the matter is, no one has expressed, really, an objection to increasing the compensation for the panel trustees in no-asset cases. They just do not know where to get the money. It is my opinion this increase is so modest, it is necessary, and so long overdue, the judicial conference should be able to find a way.

I have expressed to the managers of the bill that I will continue to press, if this amendment is included in the bill, to get the judicial conference to give us some figures on how we could raise this prior to the bill coming out of conference. I am advised the chairman, at least, has agreed they can accept this. I am hopeful my friend from Iowa can also accept it. Then I will continue to work to try to find the funds by the time we come out of conference.

I thank the Chair and thank the distinguished Senator from Alabama.

The PRESIDING OFFICER. The Chair recognizes the Senator from Alabama.

Mr. HEFLIN. Mr. President, I originally felt that this was an amendment that would add to the cost and could possibly be an increase in filing fees. Congress increased filing fees considerably within recent time, and I believe we should proceed cautiously in this situation.

The distinguished Senator from Arizona [Mr. DECONCINI] suggested he will find ways, and has suggested, for example, that this cost could be paid for by increasing the charges on Xerox copy pages.

There are increased duties that are imposed on trustees under the provisions in this bill. These increased duties and responsibilities include attempting to assist the debtor to understand his alternatives to chapter 7 bankruptcy whereby he would outright bankrupt his debt and to help the debtor understand that he could seek chapter 13 and pay his lawful debts.

Senator DECONCINI's amendment deals with the nonasset cases, and it takes a good deal of time for trustees to review and handle these cases. Trustees handle them on a volume basis, and I think there is some merit to the amendment, and I have no objection to it.

The PRESIDING OFFICER. The Chair recognizes the Senator from Iowa.

Mr. GRASSLEY. Mr. President, we are going to accept this on this side of the aisle as well. We probably ought to take some time to compliment the Senator from Arizona for raising a very valid point, but to say at the same time that this issue should not come out of conference without our finding a way to pay for it. Particularly, it seems to me, that responsibility will be upon the Senator from Arizona, to take that leadership, to find out how it could be paid for.

That is the only reservation I have about it. Since there has been a good-faith effort, so stated here on the floor of the Senate, to work toward that end between now and the product coming out of conference committee, we will let it go at this point.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1634) was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote.

Mr. HEFLIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who seeks recognition? The Chair recognizes the Senator from South Carolina [Mr. THURMOND].

AMENDMENT NO. 1635

(Purpose: To amend title 11, United States Code, to clarify that post-bankrupcy fees payable to a membership association with respect to the debtor's interest in a dwelling unit that has condominium or cooperative ownership are nondischargeable debts for the period during which the debtor occupied the unit or received rental payments for it)

Mr. THURMOND. Mr. President, I send an amendment to the desk for myself and Senator HELMS and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND], for himself and Mr. HELMS, proposes an amendment numbered 1635.

Mr. THURMOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 235, between lines 13 and 14 insert the following:

SEC. 311. FAIRNESS TO CONDOMINIUM AND COOPERATIVE OWNERS.

Section 523(a) of title 11, United States Code, as amended by section 210, is amended

(1) by striking "or" at the end of paragraph (13);

(2) by adding "or" at the end of paragraph (14); and

(3) by adding at the end the following new paragraph:

"(15) for a fee that becomes due and payable after the order for relief to a membership association with respect to the debtor's interest in a dwelling unit that has condominium ownership or in a share of a cooperative housing corporation, if such fee is payable for a period during a substantial portion of which

"(A) the debtor physically occupied a dwelling unit in the condominium or cooperative project; or

"(B) the debtor rented the dwelling unit to a tenant and received payments from the tenant for such period,

but nothing in this paragraph shall except from discharge the debt of a debtor for a membership association fee for a period arising before entry of the order for relief in a pending or subsequent bankruptcy proceeding.".

Mr. THURMOND. Mr. President, I rise today to offer an amendment to S. 540 to clarify an ambiguity in the Bankruptcy Code which has led to confusion, conflicting judicial decisions, and unfair outcomes in many cases. This amendment relates to bankrupt debtors who own condominium or cooperative units in a community association. It is necessary to correct a line of cases in which courts have held that future payments by the debtor to a community association are discharged in bankruptcy. This amendment simply makes clear that assessments by community associations which become due after the bankruptcy order for relief are not discharged, as long as the debtor receives the benefits.

Mr. President, today there are some 5 million condominium units in our Nation, in addition to cooperative units and other forms of community associations. Together, these community associations represent a significant percentage of this country's housing. These associations are found throughout the country, with the highest concentration in Hawaii, where condominiums alone make up over 20 percent of the available housing. In addition, Florida, Connecticut, California, and Colorado have significant percentages of community associations, along with many other States.

The owners of units in community associations typically pay monthly fees to cover a broad range of services provided by the association. These fees generally pay for maintenance and repair of the condominium building and common areas. This ensures that the structure itself and all common areas, including elevators, heating and cooling systems, and similar elements, remain in satisfactory condition. In addition, the fees often pay for insurance, for maintenance of driveways and parking areas, for landscaping and for snow and trash removal. Significantly, in many cases the associations' assessment also covers the utilities used by individual units so that separate metering and billing is not necessary.

With the current ambiguity in the Bankruptcy Code, owners of units in community associations may be unfairly burdened by increases in their association fees if their neighbors declare bankruptcy and receive a discharge of the association fees which are due in the future. Some courts hold that these future fees are discharged in bankruptcy, so that the debtors need not pay their share of the expenses of the association even in the future after their bankruptcy is over and even though they continue to receive benefits from the association.

Courts which reach this conclusion have sometimes recognized that the result makes no sense, but feel that it is compelled by the Bankruptcy Code, which can only be changed by the Congress. The Seventh Circuit Court of Appeals held in the matter of Rostek that future association fees were discharged so that the debtor was free from payments to the condominium association. The seventh circuit stated that the result was "troubling," but believed it was compelled by the language the Congress used in the Bankruptcy Code. That appellate court went on to explain correctly that it did not have the "power to change" that language to reach a more "palatable" result. However, in the Congress we do have that power and should exercise it to remedy this problem.

Some judicial decisions suggest that this problem is limited, for in many cases the condominium unit will be sold and the debtor will receive a free ride only for the time that it takes to dispose of the unit. However, in many cases there is no equity in the unit, so the trustee and the mortgage holder will allow the debtor to retain the unit indefinitely. While the association may have the right in theory to foreclose, in practice the mortgage holder will receive all of the recovery, so that the association will not even cover the attorneys' fees for its trouble. It is in these cases that the present system is most unfair and the need for my amendment is greatest.

This amendment would further the goal of the bankruptcy laws, which is to give debtors a fresh start by discharging their past debts while holding them responsible for any new obligations or benefits they obtain. My amendment allows all past debts owed to the community association to be discharged and simply requires payment of the assessments which become due after the bankruptcy order for relief, and only if the debtor actually receives the benefits by occupying the unit or receiving rental income from it. To further ensure that the purposes of the bankruptcy law are achieved, express language has been added to the amendment to clarify that debts to the association are not discharged if the debtor later files a subsequent bankruptcy proceeding.

Mr. President, my amendment would make the Bankruptcy Code fairer and more equitable. The debtor's neighbors who belong to the community association will be treated much more fairly by avoiding the higher assessments which result from giving the debtor a free ride. The debtor will be treated fairly because the amendment does not affect the dischargeability of fees due prior to the final order of relief in the bankruptcy. Also, as I stated earlier, the amendment applies only to situations where the debtor benefits from the dwelling unit by occupying it or receiving rents from it, and in those instances the debtor should be required to pay the postbankruptcy assessments to the association.

For all of these reasons, I urge my colleagues to support this amendment.

Mr. President, both managers of the bill have agreed to the amendment. I urge adoption of the amendment, if it meets their approval.

The PRESIDING OFFICER. The Chair recognizes the Senator from Alabama.

Mr. HEFLIN. Mr. President, before we urge adoption, let me make a statement on this. I think this is an excellent amendment.

This amendment is designed to make clear that it is not the intention of

Congress that a debtor be absolved of his obligations to continued payment of his share of common expenses due to his condominium or cooperative association which come due after he has filed bankruptcy.

It seems that some courts have interpreted section 523 of the code not only to discharge the debtor from liability for common area maintenance assessments which have come due prior to his filing bankruptcy, but for those debts coming due after the date of filing. This has severely impacted thousands of association members across the country by increasing their fees to carry the burden of those members whose obligations have been discharged in bankruptcy proceedings.

The current state of the law on this issue is quite confused. Some courts treat the obligation to pay future assessments based on a prepetition obligation as discharged in its entirety upon filing of a petition. Other courts hold that the postpetition assessments are not discharged because they have not become due at the time of filing. Still other courts reason that the post petition obligations cannot be discharged because they constitute a covenant which runs with the land, which can be terminated only by terminating ownership interest.

This amendment will clarify the ambiguity that now occurs within the courts regarding association fees for condominium and cooperatives. It will make nondischargeable the membership association fees that become payable after the order for relief if such fee is payable for the period in which the debtor occupies the dwelling after the order for relief.

I am aware that presently seven States, and the District of Columbia have passed lien statutes which are directed at this problem.

For these reasons, I support this amendment.

I congratulate the distinguished Senator from South Carolina for bringing this to our attention because this is an example of why bankruptcy reform is an ongoing situation, why we need a National Bankruptcy Review Commission, and why we ought to be able to address these issues as they arise, rather than having a great number of condominium association and cooperative memberships suffer as a result of it.

So I thank the Senator for bringing it to our attention.

Mr. THURMOND. I wish to thank the majority manager and the minority manager, too, on this bill.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, we accept the amendment on this side of the aisle. This falls into the category of which I spoke in my opening remarks on this particular bill and on the work of the National Bankruptcy Commission, that this is an example of fine tuning that from time to time a code must go under to recognize the economic realities of how we do business in this country and the changes from day to day.

The PRESIDING OFFICER (Mr. LIEBERMAN). Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 1635) was agreed to.

Mr. HEFLIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. THURMOND. I thank the Senator.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Nevada [Mr. REID].

Mr. REID. Mr. President, I received a fax yesterday in the form of a letter from an attorney in Reno, NV, by the name of Jeffrey Giles. I think, Mr. President, this sums up why we are here today.

DEAR SENATOR REID. I received a fax from the National Association of Bankruptcy Attorneys asking that I along with others communicate with you regarding the reform bill. I am not opposed to a prohibition on repeat filings. It would probably be a good thing.

I think here is the paragraph of importance.

However, the legislation in some form should be passed immediately. This reform measure has been in the works for nearly 2 years and the essence of it needs immediate enactment.

Good luck. I remain, sincerely yours, Jeffrey Giles.

The reason I mention this to the President and through you to the manager of the bill, the senior Senator from Alabama, is to congratulate him on his great work on this legislation.

I have spent time with the Senator's staff. They are well versed in the law. They are very easy to work with, and as a result of the work that I have been able to do with Senator HEFLIN and his staff, I think the bill is better than it would have been. Perhaps some of the matters that I suggested be placed in the bill would have eventually gotten in there anyway.

This bill that is now before the Senate is a good bill. I have a couple of amendments that I am going to offer, Mr. President, one of which is entirely relevant; one is not entirely relevant. But the mere fact that I am offering these amendments does not take away from the work of the manager of this bill. I think the majority and minority on this matter have done very good work for the American people.

AMENDMENT NO. 1636

(Purpose: Limitation on State taxation of certain pension income)

Mr. REID. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for himself and Mr. BRYAN, proposes an amendment numbered 1636.

Mr. REID. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert:

SEC. . LIMITATION ON STATE TAXATION OF CERTAIN PENSION INCOME.

(a) IN GENERAL.—Chapter 4 of title 4 of the United States Code is amended by adding at the end thereof the following new section:

"§ 114. LIMITATION ON STATE INCOME TAXATION OF PENSION INCOME

"(a) No State may impose an income tax (as defined in section 110(c)) on the qualified pension income of any individual who is not a resident or domiciliary of such State.

"(b)(1) For purposes of subsection (a), the term 'qualified pension income' means any payment from a qualified plan—

"(A) which is part of a series of substantially equal periodic payments (not less frequently than annually) made for—

"(i) the life or life expectancy of the recipient or for the joint lives or joint life expectancies of the recipient and the recipient's designated beneficiary, or

"(ii) a period of not less than 10 years, or

"(B) which is not described in subparagraph (A) and which—

"(i) is received in a taxable year for which an election under this subsection is in effect, and

"(ii) is received on or after the date on which the recipient has attained the age of 59½, except that the aggregate amount of payments to which this subparagraph may apply for any taxable year shall not exceed $25,000.

"(2) For purposes of paragraph (1), the term 'qualified plan' means—

"(A) an employees' trust described in section 401(a) of the Internal Revenue Code of 1986 which is exempt from tax under section 501(a) of such Code,

"(B) a simplified employee pension described in section 408(k) of such Code,

"(C) an annuity plan described in section 403(a) of such Code,

"(D) an annuity contract described in section 403(b) of such Code,

"(E) an individual retirement plan described in section 7701(a)(37) of such Code,

"(F) an eligible deferred compensation plan under section 457 of such Code, or

"(G) a governmental plan described in section 414(d) of such Code, other than a plan established and maintained by a State or political subdivision of a State, or an agency or instrumentality of either.

"(3) For purposes of paragraph (1), any retired or retainer pay of a member or former member of a uniform service computed under chapter 71 of title 10, United States Code, shall be treated as a payment from a qualified plan.

"(4)(A) An election under paragraph (1)(B), once made for a taxable year, may not be made for any other taxable year.

"(B) In calendar years beginning after 1994, the $25,000 amount referred to in paragraph (1)(B) shall be increased by an amount equal to such dollar amount, multiplied by the cost-of-living adjustment determined under section 1(f)(3) of such Code for such calendar

year by substituting 'calendar year 1993' for 'calendar year 1992' in subparagraph (B) thereof.

"(c) For purposes of subsection (a), the term 'State' includes any political subdivision of a State, the District of Columbia, and the possessions of the United States."

(b) CLERICAL AMENDMENT.—The table of sections for such chapter 4 is amended by adding at the end thereof the following new item:

"114. Limitation on State income taxation of pension income."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

Mr. REID. Mr. President, the amendment that I offer has a direct relationship to bankruptcy. My amendment will save thousands of this country's senior citizens who live on fixed incomes from filing for bankruptcy as a result of the very unfair practice of taxation of pension income of nonresidents by some States.

It works, Mr. President, like this. If someone chooses to retire to a different State than the one they worked in, some States follow you with their taxing authorities to tax the pension income you earned previously. Even though you no longer reside in the State, you no longer use their highways, their health services, their park services, any of their recreation facilities, you use nothing in the State from which you came, they still are collecting taxes.

You cannot even vote in the State, but they are demanding that taxes be paid. This is clearly, Mr. President, a form of taxation without representation.

This same amendment on two previous occasions has passed this body only to die in the House of Representatives. I have been in touch with the chairman of the Judiciary Committee in the other body. We have received assurances from him that he would hold a hearing, and he in fact did hold a hearing. I also received assurances that they will move this legislation in one form or another. I would certainly hope so.

As I indicated, because of this matter having passed the Senate on two previous occasions, my colleagues are familiar with this legislation. An amendment to H.R. 4210 passed by a margin of almost 2 to 1. In addition, this legislation was included in the committee reported version of H.R. 11 later that same year, which was ultimately passed by this body.

For a variety of reasons, many people in the country plan to retire in places other than where they have worked. They want to go to a colder climate or they may choose, as they do most of the time, to go to a warmer climate. They would leave one of the Northeastern States or go to Florida or move to California. There are many reasons people seek to retire in places other than where they worked originally.

They might want to move back to where they were raised. They might have a family there, and they want to be near their family. Whatever the reason for relocating, people spend their working years planning and saving so that they can retire to a place of their dreams, their retirement dream homes in their golden years. Imagine the retirees' shock and then dismay when after moving they receive a notification they owe back taxes along with interest and penalties not to the State in which they reside, where they use the highways, the recreation facilities, where they vote, but, rather, they are asked to pay taxes from where they came, their old State of residence. The shock is from owing a tax from which they receive absolutely no benefit or services or voting rights. The dismay from the inability to pay this sometimes enormous tax when one lives on a fixed income is very difficult to comprehend.

I would like to relate one example of the outrageous consequences that can result from the aggressive collection of the source tax. I have given this example on another occasion but it is realistic, true, and a good example of the injustice that can occur.

A retired woman living alone in Fallon, NV, lives on a fixed income of about $12,000 a year. Now, it goes without saying she is not a rich woman. But she is surviving. One day this woman from Fallon, NV, receives a notice in the mail that she owes taxes on her pension income from another State—not only the initial assessment but also penalties and interest on those taxes.

Mr. President, this amendment is offered on behalf of Senator REID and Senator BRYAN. I am offering another amendment to which the Senator from Colorado, who is now in the Chamber, will be a joint sponsor.

The PRESIDING OFFICER. The record will so note.

Mr. REID. I thank the Chair.

Mr. President, this woman, being honest, wants to find out why she owes this money. She has claimed she had not had to pay these taxes in the past. Why now? To make a long story very short, the other State went back several years and calculated her tax debt to be about $6,000. Mr. President, this is half of her income for 1 year.

This issue has been addressed in both bodies of Congress as I have talked about. The Senate bill I have introduced in this session of Congress has 28 cosponsors. In the House, they have almost 200 cosponsors. The issue is supported by a broad range of interests from the National Association of Retired Federal Employees [NARFE]; to the Fund for Assuring an Independent Retirement, which is called FAIR; Retired Officers Association; the National Association of Police Organizations; the Retirees to Eliminate State Income Source Tax, which is called RESIST, chaired by a Nevadan by the name of Bill Hoffman, from Carson City.

During the House hearing last summer, a member of the board of directors of the American Association of Retired Persons had this to say about the issue:

> While States no doubt have the authority to exercise taxing power, a number of legitimate questions arise as to the wisdom of such action. Should Congress determine that Federal intervention is necessary action before an even greater number of States engage in this practice, it would be both timely and appropriate.

The time has arrived for this Federal intervention. We have received this from the joint task committee. This has no bearing on revenues. It is revenue neutral. More and more States are exercising the authority to tax nonresident pension incomes. This is unfair. This is taxation without representation. States obviously perceive the source tax as an easy way to raise revenues; tax someone who cannot vote you out of office.

I urge my colleagues to save seniors from the embarrassing frustration of having to file bankruptcy as a result of paying taxes to the States in which they no longer reside by supporting this amendment.

It is my understanding that the managers of this bill may accept this amendment without a vote.

Mr. HEFLIN. Mr. President, I agree with the Senator. This amendment has passed the Senate twice. It is really unrelated to bankruptcy. But the fact is that it has passed the Senate twice, and has not passed the House. I say to the distinguished Senator from Nevada that House Members from Nevada would have a responsibility of getting the House to agree to this, otherwise we would be in the same situation. But the fact that the Senator has diligently and doggedly pursued this matter on behalf of the citizens of Nevada especially is commendable, that while it is not germane to the bill, we can accept it. We have a different rule in the Senate than we do in the House in that we can put nongermane amendments on Senate bills.

But I do say that I hope the Members of the House of Representatives from Nevada, and other States that are similarly situated, will take on the responsibility of getting the House to agree to this in conference.

Mr. REID. Mr. President, I say to my friend from Alabama that I appreciate very much his hope that the other side will accept this amendment, and indicate that this is not only a Nevada problem. We have almost 200 cosponsors in the House. I hope they will get more help than just my two colleagues from Nevada.

Mr. BRYAN. Mr. President, this has been a concern of Senator REID's and mine for some years, since coming to

the Senate. We are constantly reminded, as we return each week to Nevada, about the enormous injustice visited upon our citizens, and that is taxation imposed primarily from our neighboring State of California to the West, in which just this past month, I might share with my colleague and Members of the Senate, 6,300 driver's licenses from out of State were surrendered in the Las Vegas area alone, indicating the enormous influx of citizens into our own State.

Many of those citizens come from California, which has been particularly aggressive in seeking to impose State income tax from California upon Nevadans. In some instances, it occurs shortly after they move to Nevada. In other instances, it occurs some years later. This situation is not confined to Nevada alone, because California State income tax collectors have been particularly aggressive in moving other places as well.

It is—as our constituents constantly remind us in Nevada, and in the refrain heard so frequently during our own revolution—taxation without representation. Our citizens in Nevada receive none of the benefits, have no ability to impact policy decisions by reason of their residence in the State of Nevada, and they are no longer eligible to vote in California. This is egregious and unfair.

I commend my senior colleague, who has been on point on this for the last several conferences. I commend the managers of this bill for accepting the amendment, as has been the case in the past. With him I pledge a renewed effort to enlighten our colleagues in the other body as to this manifest injustice. This would be a marvelous year for us to have this piece of legislation enacted and relief accorded to literally tens of thousands of my own citizens in Nevada, as well as many across the country who labor under this manifest unfairness.

I thank my friend from Nevada for allowing me to speak on this. I commend him for his pursuit and successful efforts in getting this amendment added.

Mr. REID. Mr. President, I ask unanimous consent that on the source tax amendment, Senators AKAKA and MURKOWSKI be added as original cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRYAN. Mr. President, I rise in strong support of the amendment offered by my colleague, Senator REID.

As Senator REID has already described, this amendment would eliminate an unfair and discriminatory tax faced by many retirees in Nevada, and throughout the Nation—the State source income tax.

This pernicious tax places a completely unfair burden on retirees who move away from the State where they spent their working years. In Nevada, many of these retirees come from California; in Florida, many of the retirees come from other States on the Atlantic seaboard; in every case, however, retirees are finding that their former State of residence is demanding tax payments from them based solely on their former residence in the State.

In many instances, the retiree has not lived in the taxing State for years, if not decades, and in every instance, the retiree is being forced to pay for government services they derive no benefit from, and over which they have no control, due to their inability to vote in the taxing State.

Once a retiree appears on the radar screen of a State's tax collectors, efforts to collect the tax can be relentless. I think it is safe to say that very few townhall meetings I hold in my State occur without some mention of the difficulty caused by the source tax.

The State of Nevada has attempted to resolve this problem on its own. Under Nevada State law, other States and their collection agencies are prohibited from seizing property within the State of Nevada for the nonpayment of source taxes on pension or retirement income. Other States have passed, or are considering, similar legislation.

The State of Nevada's unilateral solution will not solve the problem, however. First of all, the Nevada statute is difficult to enforce—I have heard many accounts of retirees being harassed and threatened by collection agents working on behalf of out-of-State tax boards.

Sometimes, these intimidation tactics work—even retirees with knowledge of the statute may be reluctant to take the chance of placing their property, or their future pension income, at risk when confronted by an aggressive tax collector.

This attitude is demonstrated in a letter I received from my constituents, Mr. and Mrs. David Sperl of Las Vegas. The Sperls write:

> Thank you for your support of the Source Tax Bill . . . Source taxes are an unfair tax which is very similar to the British tea tax that caused the Boston Tea Party.
>
> We are personally impacted by the California Source Tax. I worked for Aero Jet General Corporation in California for many years. I received a small annuity check from their east coast office. This annuity and my Social Security check are our principal source of retirement income. We have lived in Nevada for several years. We vote in Nevada and not in California. We have no assets in California. We receive no service or benefit from California. The California Source Tax is clearly taxation without representation.
>
> We recently learned that Nevada has a law that protects our income and assets from attachment by another state. We have been paying the California tax every year. We do not have any disposable income and clearly cannot afford this cost.
>
> We have established a lifelong habit of paying our taxes and obligations. We have a good credit rating and we certainly do not want it tarnished by the State of California over this unjust tax.
>
> I hope the Source Tax bill will pass this year. This is an urgent matter with us.

As you can tell from both the tone and content of this letter, the Sperls are not tax evaders, or deadbeats trying to beat the tax system. Most of the thousands of retirees burdened by the source tax on their pensions have put in a lifetime of hard work; their only interest is to enjoy their well earned retirement years with a certain minimum level of comfort. The victims of the source tax are not asking for any special treatment—in fact, what they are asking for is not to be singled out for unfair taxation by revenue hungry tax boards simply because of their former affiliation with a State.

I worked for many years in State government. As Governor of Nevada, I agonized over the State budget, and I understand the need for State governments to raise revenue. In some peoples' minds, I suppose that out-of-State retirees are an easy target for revenue raising. After all, they do not vote. Without a political voice, who will defend them? This, of course, is the most fundamental unfairness of the source tax. This, of course, is the reason those of us who are aware of the injustice of the source tax compare it to the type of taxes that led to the Boston Tea Party, and, ultimately, the Declaration of Independence.

The many retirees who are the unfortunate victims of this source tax are not the only ones impacted.

For example, the reach of the source tax into other States infringes upon each State's legitimate right to tax its residents. Often, source taxes paid to other States can reduce the taxes retirees pay to their actual States of residence. The State that provides all of the essential government services to retirees, the State where the retiree votes to control the way tax revenues are to be spent, must sit back and watch as their much needed tax revenues are diverted to another State.

The proliferation and expanding scope of source taxes on retirees will also place significant burdens on employers. As we all know, a lifetime of employment with a single firm is becoming an increasingly rare occurrence. Multiple employers over an individual's career is becoming the norm, not the exception. The bookkeeping and reporting required to provide the information needed to collect source taxes on pensions will result in a huge paperwork burden on employers.

The potential cost to businesses of source taxation is the reason why the American Payroll Association has endorsed this legislation. In addition, this legislation is supported by scores of employee, retirement, and tax fairness groups including such organizations as the National Association of

Retired Federal Employees [NARFE], the National Association of Letter Carriers, the Retired Officers Association, the Retired Enlisted Association, the American Association of Foreign Service Women, the Air Force Sergeants Association, the Marine Corps League, the National Association of Postal Supervisors, the Naval Reserve Association, Common Cause, the National Taxpayers Union, the Federal Managers Association, the Airline Pilots Association, and the Air Force Association.

This outrageous tax grab by former States of residence is an unexpected surprise for most retirees. Even those retirees who are aware of the potential for source taxation of their pensions are shocked by the manner in which States assess the tax. In many instances, the mechanism of the source tax allows States to collect taxes from nonresidents on income earned outside of the State's borders. A letter from one of my constituents, Mr. Joseph Stauffer of Boulder City, NV, describes in some detail how this works. Quoting from Mr. Stauffer's letter:

If I calculate the California tax based on the portion of my pension that was earned while a resident of California, the tax comes to $119—minus the joint exemption of $128 leaves zero California tax. When I follow California tax instructions, and use my total Federal tax Form 1040 based income, I end up paying $459.

Mr. President, there are many reasons why the source tax on pensions is unfair, and many examples of the type of hardship such aggressive tax collections are causing among thousands of retirees.

On March 12, 1992, the Senate went on record with a strong showing of support for this legislation. By a vote of 36–62, the Senate declined to table an amendment very similar to the amendment before us today. I urge my colleagues to once again indicate its opposition to the unfair source tax, and vote in favor of the amendment offered by the senior Senator from Nevada.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Nevada.

The amendment (No. 1636) was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HEFLIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1637

(Purpose: To amend section 109 of title II, United States Code, to preclude a person from being a debtor under chapter 13 of that title if the person has previously been such a debtor within 3 years)

Mr. REID. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for himself and Mr. BROWN, proposes an amendment numbered 1637.

Mr. REID. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 160, between lines 6 and 7 insert the following:

SEC. 116. LIMITATION ON FILING OF CHAPTER 13 BANKRUPTCY PETITIONS.

Section 109, of title 11, United States Code, is amended by adding at the end the following new subsection:

"(h) Notwithstanding any other provision of the section, no individual may be a debtor under chapter 13 who has been a debtor in a case that was filed under that chapter at any time in the preceding 3 years.".

Mr. REID. Mr. President, Congress is currently considering one of the most comprehensive cases of anticrime legislation, and that is consistent with what all of us are hearing from our constituents on a daily basis: Enact tough but fair legislation so that those who commit acts without regard to their consequences will realize there is a price to pay for injuring society.

That is why we in this body included tough bankruptcy antifraud legislation as part of the crime bill. While the other body has chosen not to include this bankruptcy fraud prevention provision in its crime bill, it is my hope that we will somehow see to it that these measures ultimately are passed.

The comprehensive bankruptcy legislation we are today considering is a solid bill that will result in beneficial reform of a system that all agree is in need of repair. That is why I am a cosponsor of this bill. That is why I will vote for its passage, and, as I indicated in my initial statement, Mr. President, why I congratulate and applaud the managers of this bill and the Judiciary Committee for moving this legislation.

The amendment that I am offering today compliments the bankruptcy bill, and comports with the tough antifraud sentiments expressed by so many of our constituents. My amendment eliminates the fraud and abuse caused by serial filings in chapter 13 proceedings by limiting the number of petitions a debtor may file to once every 3 years.

For those people that are watching this debate, it may seem somewhat unusual that the present law allows people to file a bankruptcy petition under chapter 13 every 6 months. And in fact, as my argument will show the Chair and Members of the Senate, even the 6 months has no bearing in some areas of jurisdiction. So even though it is difficult to believe that someone can be in perpetual bankruptcy, that in fact is the case.

I am attempting by this amendment to limit the number of filings under chapter 13 to once every 3 years. That does not seem too burdensome to me, that a person can file only once every 3 years. My amendment is what we refer to in the law as a "bright line rule." It provides the courts with crystal clear certainty and is consistent with this administration's attempt to combat fraud in the bankruptcy process. Indeed, Mr. President, that is why the administration supports the passage of my amendment. I state again, the administration supports this amendment.

Why should an individual be able to file for bankruptcy every 6 months? Why do the courts allow this to take place? Why are the courts incapable of ensuring that this 6-month prohibition between filing and refiling is followed?

Since we enacted the code, we have bent over backward to protect the interests of the debtor, and we should do that. I have no problem with that, Mr. President. Bankruptcy protection is in the Constitution of the United States. We passed the law to make sure that the proceedings are fair and just.

So I say, fine. We have done what we can to protect the interests of the debtor. Everybody deserves a break when they err. But we now have reached the point where our laws almost invite people to act in a fiscally irresponsible manner. You run your credit card up. Do not worry about it. No problem. Just declare bankruptcy. And tell your debtors that you are only going to pay them 60 cents on the dollar, or 50 cents on the dollar, or nothing on the dollar.

If that is asking too much, or if you simply decide not to follow through in your repayment plan, no problem. Just have your case dismissed and file a new proceeding. This is not sound policy. This is not sound policy fiscally, Mr. President; and certainly it is not morally.

The argument that this current system works is that it gives the debtor a fresh start. The argument that it does not work is that it gives the debtor a perpetual fresh start. One of the greatest attributes about this great Nation is that we tend to give the people the benefit of a second and sometimes even a third chance. However, the negatives arising out of laws that uniformly give someone another chance is that they create a disincentive to act in a responsible manner, whether it be a fiscally responsible manner or a civilly responsible manner.

One only has to look at the inclusion of the three strikes and you are out provision in the crime bill to get a better appreciation of how adamantly people feel about the inequities of our criminal justice system. The American people are demanding that we enact straightforward laws so people know the consequences following their actions. It is no longer acceptable to enact laws benefiting the alleged bad guy at the expense of the innocent victim.

Let us remember, it is due process, not process ad infinitum. I believe my amendment recognizes this by doing the exact thing as the three-strikes provision. It provides a bright-line rule and gives all parties adequate notice that irresponsible abusive behavior simply will not be tolerated.

In part, because the Bankruptcy Code provides an enormous amount of protection to a debtor, it frequently invites abuse by the unscrupulous. When a debtor files a petition under the act, he immediately invokes the automatic stay. The stay stops virtually all action of creditors to protect their interest and their collateral.

And the stay remains in effect until the case is closed, dismissed, or discharged. If a creditor wishes to proceed against the debtor, he must seek relief from the stay. If the debtor dismisses his case, the stay is lifted and creditors are free to commence efforts outside of bankruptcy to collect from the debtor.

At this point, however, the debtor can file another bankruptcy petition. This action by the debtor reinvokes the automatic stay, once again prohibiting the creditors from taking action to ensure payment of the money they loaned to the debtor. Herein lies the potential for abuse. A debtor, through a pattern of filings and dismissals can delay the disposition of his case and prevent creditors from collecting any money.

My amendment will eliminate the pernicious problem of serial filings in chapter 13. Under this amendment offered by the Senator from Nevada and the Senator from Colorado, a debtor who goes into chapter 13 will know from the outset that he will not be given unlimited swings at the plate.

Mr. President, if there was ever a time when this body is given an example of how to help business, especially small business, this is it. If we want to talk about doing things on the Senate floor and in the Congress to help businesses, this is it. Who gets jerked around by these unscrupulous people who know the ways and the vagaries of the bankruptcy law? The businessmen and businesswomen trying to make an honest living. These bankruptcies cause delay, delay, delay. There are examples where they delayed these bankruptcy proceedings ad infinitum. They file one, they ask for a discharge, and they can file again.

This amendment will eliminate this from happening. Bad faith debtors should not have unlimited swings at the plate. How many swings do you get before you are out? This rule will not prevent the honest, good faith debtor from obtaining a fresh start or a number of fresh starts. What it will do, however, is to say to all debtors: You are now in the court of last resort, and because we are granting you the absolute, unquestioned protection of the automatic stay, you will be given one opportunity to reorganize your finances for at least every 3 years.

Why is such a rule necessary? There are a number of reasons, Mr. President.

At this time, in recognizing my friend from Colorado, I will have some more I would like to say, but I would be happy to yield to the cosponsor if he wishes to speak now.

Mr. BROWN. I thank the Senator from Nevada. I would like to praise the Senator's hard work in this area. This is a very basic amendment. Right now, the Bankruptcy Code allows a debtor to make a chapter 13 filing every 6 months. This amendment would change that 6-month limitation to limit debtors to one filing every 3 years. We must keep in mind that there is a safety provision. The Bankruptcy Code, in conjunction with the rules of civil procedure, allows additional filings in the interest of justice. In other words, some discretion is left with the judges.

This modest step of moving from a 6-month limitation of filing to 3 years will be helpful. It will help deter the people who abuse the code; it will help deter the debtors who use chapter 13 not as a mechanism to get back on their feet, but as a way to defraud their creditors. It is a responsible and modest step, it is a thoughtful amendment aimed at deterring serial filings.

I am delighted to join the distinguished Senator from Nevada in offering this for the consideration of the body.

I yield to the distinguished Senator from Nevada [Mr. REID].

Mr. REID. Why is this rule necessary? Many reasons. For example, the debtor subsequently filing a chapter 13 plan will not attempt to make a single payment to his creditors. Without the bankruptcy court's confirmation of a plan, the creditor is unable to exercise any of his rights against the collateral.

A case in the eighth circuit accurately highlights this problem. In that case, the debtors were frustrating the bank's efforts to foreclose on real property. As each foreclosure sale became imminent, the debtors would file a chapter 13 petition, which they would later have dismissed. They did this on three separate occasions. Each of the prior petitions was filed within 2 or 3 days of a scheduled foreclosure sale.

In each case the creditors filed a motion for relief from automatic stay and each filing was within 6 months of the previous dismissal.

Finally, after the court dismissed the third petition, the bank rescheduled the foreclosure proceedings as necessary for repayment. Incredibly, within 2 hours of the foreclosure sale the debtors filed a fourth petition under chapter 13.

What happens, Mr. President, in situations like this: Let us assume that that property is badly needed to keep a business afloat or to keep someone's life afloat. Normally what they will do is cave in to the unscrupulous bankruptcy filer and take a ridiculously small offer to settle the case. That is unfair and simply should not happen.

Most creditors file motions with the bankruptcy court seeking lifting of automatic stay. The debtor, realizing time is running out and the bankruptcy court will not likely confirm the plan, can always move to dismiss the case. Consent to dismissing the first petition for bankruptcy, the debtor can turn around and file a new petition for chapter 13, everything else the same except the date of filing, thus again triggering the immediate imposition of the automatic stay.

It is an endless and vicious cycle circumventing the congressional intent of preventing serial filings. The court recognized this abuse and asked Congress to clarify the rules. We should clarify the rules. That is what this amendment is about.

I am sure that a number of people in offices, or watching this on C–SPAN, are wondering what all this bankruptcy terminology means.

I would be willing to bet that there are many interested in knowing what the so-called automatic stay is all about. In theory, the automatic stay is supposed to act as a shield that provides the debtor with temporary protection from the creditors until he can work out a reorganization plan. In practice, however, the automatic stay has become a weapon used as a very blunt instrument to thwart the legitimate interests of a creditor.

It automatically stops almost any legal proceedings against the debtor to collect the debt. The automatic stay is triggered automatically. No questions asked, no proof necessary, simply pay the court the $90 application fee, and abracadabra, walk out of the court with the ability to ignore legitimate requests for payment.

The real tragedy, however, is that the debtor does not have to offer a shred of evidence that proves he needs protection. Credit card bills, car payments, mortgage payments, phone bills, cable bill statements, any other financial obligations are all stayed merely by filing this petition in bankruptcy—not a bad deal.

And remember, the point of this amendment is to prevent them from doing it within the 3-year time period over and over again, as they are now doing it.

I believe that the bankruptcy court in the northern district of Illinois best described the application of automatic stay when it held:

> The automatic stay is one of the most powerful weapons known in law. It arises not from an order of the court after a hearing on the merits, but upon the mere filing of a case.

Mr. President, the arguments necessitating my amendment I believe are compelling. One only has to look at the number of chapter 13 plans that are

dismissed. Listen to this, Mr. President:

Status of chapter 13 cases. In 1982, 12,628 were filed; half of them were dismissed.

In 1983, almost 100,000 were filed; over half of them dismissed.

In 1984, 92,000; over half of them dismissed.

In 1985, almost 108,000 cases filed; half of them dismissed.

In 1986, 130,000; 47 percent of them dismissed.

Now, starting with 1987 some of the cases are still pending, so it is difficult to get a totally accurate account. But in 1987 we had 142,000 cases filed, and there are still 6.2 percent of them pending. And even with that, there is almost 50 percent of them that have been dismissed.

In 1988, 156,000 cases filed; while 15 percent of them remain open, 48 percent of them have been dismissed.

I am making the point, Mr. President, if you look at the number of chapter 13 plans dismissed, you get the idea that serial filing is part of the game.

According to the Administrative Office of the United States Courts, of hundreds of thousands of chapter 13 cases filed, about half of them ended in dismissal. Keep in mind, Mr. President, that the most the law can do with respect to preventing dismissals is to require the debtor to wait 180 days before filing a new petition, and even the application of the 180-day wait rule is subject to legal dispute. No wonder the courts are inviting us to legislatively intervene.

We in Congress have taken steps in the past to address the problems of serial filings. Unfortunately, Mr. President, these measures have proven to be largely ineffective. In fact, the one section, Bankruptcy Code section 109, added in 1984—the intent was real good—was to deal with the problem of serial filings. It simply is not strong enough. It caused confusion.

Opponents of my amendment will probably argue section 109 of the Bankruptcy Code is a sufficient deterrent to abusive bad faith serial filings. All I can say, Mr. President, if you look at the status of chapter 13 cases you will find they are filing for and dismissing more after the 1984 amendment.

It simply is not strong enough. The section attempts to restrict serial filings by providing as follows:

* * * that notwithstanding any other provision of this section, no person may be a debtor if within 180 days before filing petition for bankruptcy the case was dismissed for willful failure of debtor to abide by court order, or the debtor has dismissed the petition after creditor filed the motion to lift the automatic stay.

This is the only section of the Bankruptcy Code I am aware of that restricts serial filings. I suggest it does not protect against abusive repetitive filings, and the history agrees with me. Look at the numbers and you will find that section 109 may help, but it does not work.

Some courts have held that the application of this provision may be discretionary. Many courts have struggled with what constitutes willful failure on the part of the debtor. We get into a lawyer's dream with section 109.

My amendment is straightforward. There is no confusion. It deals with from the date of filing so you could do it within a 3-year period. It is very simple. It is to the point and leaves the court very little discretion. That is the way it should be.

The bankruptcy court for the middle district of Florida ruled in one case that the debtor's dismissal of a third chapter 13 does not constitute willful failure of the debtor to abide by the court order. Thus, the debtor's fourth bankruptcy petition filed again within 6 months of debtor's dismissal of third case is not barred by section 109(g)(1).

The second part of the section, section 109, also does little in way of preventing abusive serial filings. It simply prohibits a bankruptcy refiling in those cases, where following the creditors request for the relief from the automatic stay, the debtor dismisses his case. And keep in mind, Mr. President, the debtor may always dismiss his case at any time for whatever reason. He may wake up in the morning and say, "I do not feel well today," and dismiss the case. He or she may stand and say, "I just think I want to do something different today; I am going to dismiss my case." The point is there does not have to be any reason.

My amendment eliminates the need for courts to waste all their time deciding what does or does not constitute willful failure.

Mr. President, if you read this section, section 109(g)(2), you will wonder why laws like that are even on the books. The kind of bad faith filing it attempts to prohibit ought to be considered so presumptively wrong and prohibitive, the courts should not waste time allowing it to be litigated.

My amendment eliminates the need for the court to waste all their time deciding what constitutes willful failure where the debtor dismisses the case following filing of the motion for relief for automatic stay.

The rule embodied in this amendment is in the best interest of judicial economy and will unquestionably eliminate the inconsistencies caused by judicial interpretation of section 109. In so doing, it will prohibit the deleterious action of serial filings and thus allow the bankruptcy courts to devote their already limited resources to disposition of genuinely legitimate cases.

There may be some who oppose this amendment, Mr. President, who would argue that its application in some rare circumstance could be harsh and may result in injuring some honest good faith debtor. I do not believe that to be the case because there is a safety valve.

Mr. President, I practiced law for many years in the Federal system and in the State court system in Nevada and other State courts. There is a safety valve provision incorporated in all Federal rulings of procedure and that is rule 60(b) of the Federal Rules of Civil Procedure.

Rule 60(b) of the Federal Rules of Civil Procedure, I have used on many occasions as most attorneys who have a trial practice do. In effect, what it does is allow for an attorney to file on behalf of his or her client a motion for relief from a judgment or an order. In fact, rule 60(b) allows courts to exercise discretion in relieving a party from his legal obligation, or from a final order in cases of mistakes, inadvertence, excusable neglect, newly discovered evidence, fraud, et cetera.

Rule 60(b)6 states, amongst other things, on a motion upon such terms that are just, a court may relieve a party or its legal representative from a final judgment order of proceedings for the following reasons, and number six is, any other reason justifying relief from the operation of the judgment.

Mr. President, this is certainly fair. It would cover those rare instances when somebody may need to file within a 6-month period. I insist that should be rare. This safety valve provision incorporated in the Federal Rules of Procedure grants courts discretionary relief of parties of the legal obligation in the interest of justice. It will clearly mitigate any harsh effects caused by this amendment.

I ask those who oppose this amendment to consider the parties who stand to gain the most by the defeat of my amendment—attorneys involved in bankruptcy practices; people who, in many instances, do not want to pay their legal obligations; unscrupulous debtors generally intent on ripping off a rip-offable system—I am sorry to call it that—and those who stand to lose the most from its defeat.

Well, aside from the courts and the taxpayers, the real losers are business people. I have mentioned that earlier. Everyone within the sound of my voice should understand that this is a real opportunity not to talk about helping small business, but to do something to help small business.

Mr. President, I vividly recall the days when I first used to go to bankruptcy court and we had the first meeting of the creditors. The creditors would come and there was a proceeding where you would follow the statute and you would go in a room and sometimes the room was full of creditors. Not anymore. Rarely do you find anyone who shows up at the first meeting of creditors because they have given up on the system because they do not collect money in bankruptcy.

Bankruptcy has become a way to avoid debt. I am sorry, but that is true. People used to come to me and apologize for having to file bankruptcy. It is not that way anymore.

They have the little quickie. In Nevada, we were the divorce capital of America, and there were people who used to advertise for a quickie divorce. Now they advertise for quickie bankruptcy proceedings.

Well, the people that would benefit from the adoption of this amendment more than anyone else would be business people of America, particularly small businesses. I believe a vote against this amendment is a vote against small business and a vote against those who play by the rules.

I think we should send a message to the American people that we are willing to enact tough, meaningful legislation that will put an end to fraud and abuse in the bankruptcy process, at least in this instance.

I ask my colleagues to join me and the Senator from Colorado [Mr. BROWN] and this administration in supporting the adoption of my amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa [Mr. GRASSLEY].

Mr. GRASSLEY. Mr. President, I rise in opposition to this amendment by the distinguished Senator from Nevada. Perhaps there is some problem here and perhaps that needs to be dealt with, but we feel it can be dealt with in a little different manner.

I think that his approach could be characterized as using a cannon to go after a fly. I think there are some ways, if there is a problem here, to deal with it, but not this way. And I will suggest some alternatives.

But let me say, if you remember what I said in my opening comments, that part of the purpose of this legislation was to encourage the use of chapter 13 and promote reorganization as opposed to the alternative that is often used now, the liquidation that comes out of chapter 7 for individual consumer debtors.

Let me say, as a matter of fact, that most chapter 13 plans now only last 3 years. A 3-year bar would very harshly single out chapter 13 for treatment not found anywhere else in the code, I think, contrary to the intent of our legislation, which is to encourage chapter 13.

And it would be discouraged, even though this chapter is widely regarded to be favored by creditors, who receive, as a result thereof, a greater percentage of repayment, and by the debtors who sincerely wish to repay their obligations.

So considering the motivation of this portion of the bill before us, it seems to me that this amendment by the Senator from Nevada just detracts to too great of an extent from what we are trying to accomplish.

The proposed amendment is not proportional to the perceived need.

The bankruptcy courts already have broad authority to act to dismiss repetitive, bad-faith filings by consumer debtors. Courts are using this authority already.

There are already remedies in the current section 109, because one subsection bars refiling within 180 days where the case was dismissed by the court for the debtor's willful failure to abide by orders of the court, or to appear before the court in proper prosecution of the case. And then another subsection bars refiling for 180 days where the debtor requested a dismissal following a creditor's filing of a motion to lift the automatic stay. It seems to us that these provisions are adequate to deal with abuses.

To the extent that section 109(g) is believed to be too narrow, or otherwise inadequate, there are alternatives barring refiling any time a case was dismissed "for cause" rather than for "willful failure of the debtor." That would better focus on abusive cases, we feel.

And yet another alternative, focusing on situations where the debtor is abusing the system, would be to add a new subsection (3) to section 109. I will not go into exactly how I would phrase that, but we think that these are better alternatives.

The proposed amendment would impose a hardship on honest debtors.

The amendment, in my view, is inflexible. In my view, it fails to take into account the personal situation of consumer debtors.

As an example, a debtor who lost a job after filing and confirming a chapter 13 plan typically has the case dismissed for failing to make payments. Under this proposed amendment, that debtor would not be able to refile and make renewed payments under a plan if he later gained new employment.

Similarly, a debtor who, post confirmation, suffered an unanticipated family expense—let us say, for instance, a child or a family member became seriously ill without adequate insurance—may not be able to service the plan payments and have the case dismissed. Now, the case can be retried and payment resumed when the financial picture improves. Under the proposed amendment, this is not an option.

The proposed amendment would not help creditors obtain repayment.

In these very situations that I just described, creditors would not be able to receive repayment pursuant to the plan, even when the debtor is willing and able to repay.

But, the bottom line, Mr. President, it seems to me, is that for a lot of reasons chapter 13 is used less now than it was originally intended when it was established. A lot of those cases are finding their way into chapter 7. We ought to encourage them, both for the benefit of the debtor as well as the benefit of the creditor to use chapter 13, and that is one of the underlying, basic principles of this legislation before us.

I feel the amendment proposed before us now will detract from that original goal.

The PRESIDING OFFICER. Is there further debate?

The Senator from Nevada [Mr. REID].

Mr. REID. Mr. President, I know the manager of the bill, the Senator from Alabama, wishes to speak. But so there will be some degree of ability to follow the debate, I would like to respond to my friend from Iowa.

If, in fact, one of the reasons for this bill is to encourage more chapter 13 filings, I think that is really not a reason to do it. We are getting plenty of that.

As I indicated, the chapter 13 filings are going sky high. I mentioned that the number of filing—the first year I gave was 1983, there were 92,000 filings.

In 1992, we had 266,000 chapter 13 filings.

Mr. GRASSLEY. Mr. President, will the Senator yield?

Mr. REID. Yes.

Mr. GRASSLEY. I probably did not make the point as forcefully as I should have. So consequently I think the Senator, maybe, misunderstood.

I am not saying there should be more, we should encourage any sort of bankruptcy filings. But we are finding so many of these cases that should be in chapter 13 are in chapter 7.

The point of the legislation is to encourage the use of chapter 13, if it is necessary to file for bankruptcy, instead of chapter 7.

Mr. REID. I appreciate the clarification.

Mr. President, when my friend from Iowa stated he was not aware—I am paraphrasing—of other areas in the Bankruptcy Code where they have such a harsh time limit, that is really not factual either, I respectfully submit, because chapter 7 filings have a time limit double that suggested by my amendment.

So my point is that I think the section 109, for the reasons I have mentioned and I will repeat them very briefly, does not adequately prevent serial filings.

We have had courts that have told us, "Please, Congress, do something." I gave an example in my opening statement where one judge said they could even file within the 6-month period, if they want, more than one petition for bankruptcy under chapter 13. I think that is wrong.

My friend from Iowa also said under section 109 there is broad authority to act. The remedies in section 109 simply do not work. My friend from Iowa gave the example of willful failure. I respectfully submit again, Mr. President,

if you go before a court and/or a jury and you have a burden of proof to show "willful," under the term "willful failure," that is an extremely high burden that very few factual cases can establish.

So the fact that the section 109 says "willful failure," that does not mean that many people will be able to meet that extremely high burden. The examples mentioned by my friend from Iowa, if someone has inadequate insurance because they lose their job—I know the bankruptcy judges in Nevada. They are very kind people. If there was a tearjerker, somebody's heartstrings were pulled, something happened such as indicated by the Senator from Iowa, rule 60(b) is incorporated into bankruptcy rule 9024. Thus, it is clear it applies, and Congress deemed it to be used to prevent undue hardship.

In section 109, the issue is whether it is sufficient to deter serial filings. The answer is no. The section was enacted in order to prevent serial filings. The case law evidences it does not effectively achieve, in any manner, the stoppage of the consistent filings of bankruptcy petitions under this chapter. And it has led, as indicated by a few of the court cases I have mentioned, to some very, very serious inequities to small business people in particular.

This issue is—this is my wording; I think my friend from Iowa said it was too harsh—too draconian is my word. I say that is not true. Debtors will still be allowed to file bankruptcy. There will still be available the enormous protection of the automatic stay. My amendment provides they can only receive the benefits of chapter 13 once every 3 years. That seems fair. And that is what we are trying to do, is present something to the courts that will work fairly, be fair to the persons seeking protection of the bankruptcy laws and also fair to the business people of America.

Chapter 13 works. We ought to be encouraging debtors to use it, is what my friend from Iowa said.

If it works so well, how come over 50 percent of the chapter 13 cases filed between 1982 and 1986 ended in dismissal? I do not know what they will be in 1993. In 1992 they are up to 266,000 cases, and I am sure we will have well over half of them dismissed.

If Congress passed section 109 to prevent abusive serial filings and these filings are still occurring, how can we argue that the chapter works? We ought not to be encouraging anyone to declare bankruptcy. This is fundamentally bad policy.

The PRESIDING OFFICER. Is there further debate?

The Senator from Alabama [Mr. HEFLIN] is recognized.

Mr. HEFLIN. Mr. President, I think this is a well-intended amendment, but as the distinguished Senator from Iowa said, it is a cannon to kill a gnat. As I recall, in physics—I believe it was Newton—that for every action there is an equal and opposite reaction. I really believe in the overall situation, that this amendment is really self-defeating for the intent toward which it is directed. The intent is that a debtor ought to rarely use bankruptcy, and that if there is a way for him to pay debts, that he ought to pay his debts.

I believe that people ought to pay their debts, and the concept of creating chapter 13 was to provide a way to pay your debts.

In order to understand this situation, you have to understand the difference between chapter 7 and chapter 13.

Chapter 7 is just outright bankrupting your debts. You say, "Here are my assets." In most instances there are none. And "Here are my liabilities," and the blackboard is erased completely. A debtor comes out, and his creditors cannot go to court. They cannot execute on you. They cannot garnish.

So chapter 7 is a procedure by which a debtor gets rid of his debts.

The intent of this bill is to say that a debtor ought to pay his debts and, therefore, there are procedures in the Bankruptcy Code under chapter 13 that will allow time to pay one's debts.

What we are talking about here with the pending amendment is, really, to put an impediment into the process by which debts can be paid in bankruptcy proceedings. The amendment is an impediment, because normally a person who goes into bankruptcy goes to an attorney, not knowing the difference between chapter 13 and chapter 7.

A debtor has never heard of chapter 13, and he has never heard of chapter 7. He goes to a lawyer and, in most instances, the lawyer says, "All right, there is chapter 7. We will put you in straight bankruptcy, and you will not have to worry paying for your debts."

We had testimony in the hearings from judges who said they had inquired of people going into bankruptcy, and they had said that at least 90 percent of those who went into bankruptcy, if they had known they had an opportunity and a procedure by which they would have paid their debts, they would have exercised that right, gone under that procedure, and paid their debts. It is a matter of course sometimes in order to arrange for them to pay it. That is the purpose, of giving some protection to them during that time, but the ultimate goal is that they pay their debts.

How does what I have said thus far apply to this amendment? What this means is that those individuals who have gone under chapter 13 and circumstances arise where they have to dismiss, if there is a 3-year statutory bar where they cannot go back into chapter 13, what are they going to do? Instead of dismissing, they are going to transfer to chapter 7 by which they do not pay their debts.

This bill provides for a national bankruptcy review commission. The problems that are present in this issue pertaining to the 6 months under sections 109 (g)(1) and (g)(2) ought to be looked at by the bankruptcy commission.

We dealt with trying to find some substitutes for some of the problems, but we could not come up with what we thought was a studied, carefully reviewed approach as to how to handle this without causing the reactions that could occur.

To give some examples, and I think Senator GRASSLEY gave some examples in regard to this: A person goes in to a lawyer. He says they are after me on my debts. They are fixing to take my automobile; they are garnishing my salary; therefore, what do I do? The lawyer tells a debtor there is bankruptcy. He tells him about chapter 7 and he tells him about chapter 13. The debtor, if he goes with 13, in 90 percent of the cases will select a procedure by which he pays his debts. He is given some period of time to work out an arrangement by which he can live.

For example, what he would normally do is take his salary and the court will approve a plan by which 40 percent of his salary each payday goes into a fund to pay his debts, and they allow him 60 percent to live on; that is if he is a fairly low wager. If it is higher, it would be on a different percentage basis.

If he goes into it and then he loses his job, he has no way of making those payments. So what does he do? He may have to dismiss his case, or the court may dismiss his case for the failure to pay according to the plan. If he gets his job back, he is then hounded by his creditors. Garnishment attempts start again; he has no protection, which he had under chapter 13, since he was either voluntarily or involuntarily dismissed from chapter 13. He, therefore, has the attachment that is fixed and takes place.

What happens then? Under this, he cannot go back into chapter 13 and pay his debts. So what does he do? He files chapter 7 and he outright bankrupts his debts.

So the end result of what we are trying to achieve is a situation where debts are paid and not avoided. What this amendment would achieve is a situation in which chapter 7 filings will be increased.

Senator GRASSLEY used, also, I believe, the illustration about a situation where a catastrophic event occurs to a family where, for example, a child or a family member becomes seriously ill without adequate insurance and, therefore, the family has to give priority to the treatment of their child. There are many instances such as this. But the end result on all of this is that the op-

posite reaction that takes place from this action, which is well-intended, is that it is going to increase outright bankruptcies and not the procedures by which a debtor pays his debts.

There is a statute prohibiting refilings under chapter 7 for a 6-year period which addresses the question of abusive filings. But there may be legitimate circumstances in a chapter 13 case such as loss of a job, loss of salary, or a catastrophic event that occurs, which may warrant a refiling to allow a debtor to pay his debts.

With that in mind, I feel like we must object to this amendment. But I realize that what the Senator from Nevada is doing is a legitimate concern. But how this is addressed where it does not create increased filings of outright bankruptcy under chapter 7 has to be carefully considered and carefully crafted in language. To me, this is something that the national bankruptcy review commission ought to consider.

This has just come to our attention in the last 2 or 3 days, and we have not held any hearings nor investigated it.

Therefore, under those circumstances, I say we must oppose this amendment. I think the intent of the Senator from Nevada is good, but the complexities of this matter are such that it may have an adverse reaction rather than a positive action of what we want to obtain.

Mr. REID addressed the Chair.

The PRESIDING OFFICER (Mrs. FEINSTEIN). The Senator from Nevada.

Mr. REID. Madam President, I appreciate the kind words of the Senator from Alabama, but I respectfully submit that we should look at a judge and his statement from the northern district of Illinois in a 1989 case.

Section 109 was in effect at that time. The judge said, among other things, when pointing out the vastness of the problems with section 109: "This is just the tip of the 'abuseberg.'" A-b-u-s-e-b-e-r-g, abuseberg. That is the word of a judge, not mine.

The fact is, Madam President, that we do not have the luxury of waiting, with all due respect, for a review commission. Whenever something is difficult here, we tend to turn it over to a committee and have them study or hold hearings on it. There are times when that is necessary. But here we have over a quarter of a million filings in chapter 13, half of which have been dismissed—a quarter of a million in 1 year, millions over a period of years.

I say the time is now to stop the serial filings, to stop the abuses. We need to get rid of this "abuseberg," as referred to by the judge from the State of Illinois.

Madam President, everyone should understand, everyone from the State of California, the State of Illinois, Alabama, Iowa, Nevada, and all the other States, that when we go home and talk to our small business people in townhall meetings, Chamber of Commerce, the Rotary clubs, wherever we will run into them, we will have had the opportunity to help business people in America because we are stopping abuses that take place on a daily basis if we pass this amendment.

Remember what we are doing. We, with this amendment, are saying you can only file bankruptcy petitions under chapter 13 within a 3-year period. That is not very draconian. And I say to my friend from Alabama, we will probably stop some chapter 13 filings, but that is good because half of them are dismissed anyway.

Remember, when somebody files a chapter 13, there is an automatic stay. They pay nothing. And they do not have to pay anything. There can be an order entered that they pay 50 cents on a dollar. That person who files a bankruptcy can thumb his or her nose at the judge and everybody else and not pay a penny. There are no recriminations. Nothing can be done. They can ignore the plan that is submitted, the plan that is agreed to, and voluntarily dismiss the petition, turn right around again and file and get another automatic stay. That is not fair.

Not only will we perhaps stop some chapter 13 filings, people will find they cannot abuse the system as much, but we will stop bankruptcy filings in general because people will find they cannot game the system. We will stop, if this amendment passes, many more filings.

Now, let us talk about chapter 7. Chapter 7 proceedings are not all that bad if you are somebody that is owed money and you have collateral. It is better than a 13 because under chapter 13, if this amendment does not pass, it can just keep going and going, and they, as I indicated in my statement earlier, Madam President, keep filing these petitions and you cannot get your collateral back. Whether it is a piece of real estate, a washing machine, a house, whatever it is, you cannot get it back. They can just continually file these petitions. At least with a chapter 7 there is a discharge, and if you have collateral you get to keep that. You are going to get your collateral back.

So there is nothing really bad about chapter 7 if you are collateralized. So let us not make this amendment a battle of lawyers' terminology. What does this amendment do? Under the present bankruptcy law, a person can file a chapter 13 proceeding any time they want. We have had one court here that said the 6-month provision which is written in law, that is not even any good. So you can file a proceeding tomorrow, 2 months from now, 2 months from then.

What I am saying and what this amendment is saying is that you should only be able to file every 3 years. That is not draconian. As I have indicated, there is provision within the law, if there is some personal tragedy in the life of the person who is under chapter 13—death of a spouse, house burning down—there is provision in the law now under 60(b) as incorporated under the Federal Bankruptcy Act that you can ask for special relief. That is fair. That is reasonable.

If there were ever a probusiness amendment in the 200-plus years this Senate has been part of this great Government, if there were ever an opportunity to protect business, this is it. I repeat, anyone going home and meeting with small business people, I respectfully suggest, who does not vote for this amendment is voting against small business people's ability to have their bills collected.

Now, I also believe that we have lost sight of one thing, and that is when you incur a debt you should pay it. I wish to give all the relief I can to people who find themselves—and I mentioned that in my opening statement—with a problem, and that is why we have bankruptcy laws. But how much do we have to bend over backwards to protect those people who are willing to abuse the system?

Can we not look out for people who are willing to put their sweat and their blood into a business and they extend credit to someone, they sell them something, and that is collateralized and they cannot get it back. Should we not be concerned about them a little bit? I am saying my amendment will help. It will stop serial filings. It will stop people who want to abuse the system, and those who find themselves in a real emergency—and it will be extremely rare; last year, 1992, the last year for which we have records, 265,601 people filed under chapter 13. There will be a few people under that who might need to comply with rule 9024 of the bankruptcy code and they can have relief if in fact something goes wrong—as I indicated, a home burns down or something happens.

This is a probusiness amendment. This amendment is bipartisan. Republicans support it, and Democrats. The administration supports the amendment. So I think we should just buy down on this and protect the business community of America for a change.

I ask for the yeas and nays on this amendment.

It is my understanding, I say to my friend from Alabama, that leadership does not want to vote right away, and so I ask for the yeas and nays and it can be set at whatever time the managers or the leadership would decide. But I would ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. HEFLIN. Madam President, I want to spend a moment to comment on Senator REID's amendment to section 109 to bar refiling of any chapter 13 within 3 years.

Most chapter 13 plans now only last 3 years. A 3-year bar would harshly single out chapter 13 for treatment not found anywhere else in the code. The result of this amendment is that chapter 13's will be discouraged, even though this is widely regarded to be favored by creditors, who receive a greater percentage of repayment, and by debtors who sincerely wish to repay obligations. This proposal is inconsistent with Congress' stated policy to promote chapter 13 as an alternative to chapter 7 for individual consumer debtors.

The proposed amendment is not proportional to the perceived need, in that the bankruptcy courts already have broad authority to act to dismiss repetitive, bad faith filings by consumer debtors; courts are using this authority already. In addition, there are already remedies in current section 109—109(g)(1) bars refiling within 180 days where the case was dismissed by the court for the debtor's willful failure to abide by orders of the court, or to appear before the court in proper prosecution of the case. Section 109(g)(2) bars refiling for 180 days where the debtor requested a dismissal following a creditor's filing of motion to lift the automatic stay. These provisions appear to be adequate to deal with abuses.

This amendment would also propose a hardship on honest debtors because it is inflexible, and fails to take into account the personal situations of consumer debtors. For example, a debtor who lost a job after filing and confirming a chapter 13 plan typically has the case dismissed for failure to make payments. Under this proposed amendment, the debtor would not be able to refile and make renewed payments under a plan if he later gained new employment.

Similarly, a debtor who, post confirmation, suffered unanticipated family expenses, for example, a child or family member becomes seriously ill without adequate insurance, may not be able to service the plan payments and have the case dismissed. Now, the case can be refiled and payments resumed when the financial picture improves. Under the proposed amendment, this is not an option.

Finally, the proposed amendment would not help creditors obtain repayment because in the situations described above, creditors would not be able to receive payment pursuant to the plan, even when the debtor is willing and able to repay.

For these reasons, I am opposed to this amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHAPTER 13 REFILING

We are advised that Senator Harry Reid of Nevada may offer an amendment to the Omnibus Bankruptcy Bill which would amend section 109 of the Bankruptcy Code to add the following new subsection:

(h) Notwithstanding any other provision of the section, no individual may be a debtor under chapter 13 who has been a debtor in a case pending under that chapter at any time in the preceding three years.

The following points should be considered in weighing the amendment:

Although creditors receive an estimated $1.5 billion a year in payments through chapter 13 plans, the proposed amendment would discourage chapter 13 filings. Former chapter 13 debtors could still file chapter 7 liquidation cases within the three-year period. Unsecured creditors generally receive little or nothing in consumer chapter 7 cases.

The proposed amendment does not distinguish between former chapter 13 debtors who completed their plan payments, those who made some payments, and those who did not make any payments.

The period during which former chapter 13 debtors would be barred from refiling under that chapter is six times longer than the 180-day prohibition on refiling set out in existing subsection 109(g). Furthermore, the proposed amendment covers all former chapter 13 debtors, not just the potentially abusive former debtors targeted by the existing statute. Section 109(g) is limited to dismissals by the court for willful failure to abide by court orders or to appear for hearings, and to voluntary dismissals after a creditor has filed a motion for relief from the automatic stay.

Let me just briefly say, and I will bring this to a close since Senator MOSELEY-BRAUN has been a good while waiting here to do some other things, the matter of repetitive filings is an issue, and I think in order to handle it a national Bankruptcy Review Commission is the proper forum to give that consideration.

This amendment has come up recently, and we have not had time to consider all of the ramifications that might take place, and it is a complex issue.

I quoted awhile ago about the law of physics, and now I have had given to me by very able staff people the exact quote, that Isaac's third law of motion is that "force always comes in pairs. For every force there corresponds an equal force in the opposite direction. This is sometimes called the law of action and reaction." And the source for that is the Encyclopedia Americana, so I wanted to be able to correct what I said before. It is really Newton's third law of motion.

Madam President, I ask unanimous consent that the Reid amendment 1637 be laid aside until 5:30 p.m. today, and that at 5:30 p.m., without intervening action, the Senate proceed to vote on or in relation to the amendment, with no second degree amendments in order to the Reid amendment 1637.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I have just a minute or two, and then and I will go back to my office until 5:30.

I would say again, in reply to my friend from Alabama, for whom we all have the greatest respect—there is no one in this Chamber to whom we look more for leadership on matters relating to judicial affairs than we do Judge HEFLIN.

So I have the greatest respect for him. However, I would say let us switch the burden. If in fact there is something wrong with this amendment—which I do not think there is; I think it has been clearly illustrated why it would help the business community of America and not help any one person that wants to file bankruptcy—let the Bankruptcy Review Commission look at this amendment after it passes rather than reversing it, and saying let us see if there is a better way can we do it. This is the best way to stop serial filings. Right now there is no way to stop serial filings. This would stop it.

Mr. GRAHAM. Section 214 of this bill addresses cases that turn upon issues involving guarantees and who may be considered an "insider" under the Bankruptcy Code. It is my understanding that the Deprizio decision, which changed the understanding of bankruptcy law by expanding the definition of "insider", has been applied to lenders retroactively, even though the challenged transactions were made before Deprizio was decided. In fact, it is my understanding that the interpretation of the Bankruptcy Code by those courts which follow Deprizio permits a Trustee in Bankruptcy to recover from a lender who is innocent of wrongdoing and deserving of protection, merely because he sought a guarantee for the debt.

Mr. HEFLIN. The Senator is correct in his understanding. Section 214 of the bill is intended to legislatively overturn Deprizio. We do not believe that the Deprizio decision correctly interprets what the congressional intent was when the Bankruptcy Code was enacted in 1978. Section 214 of this bill is intended to return the status and understanding of law to that which predated the Deprizio decision.

Mr. GRAHAM. Section 602 of this bill states that the change in the Bankruptcy Code shall only apply to cases which are filed after the date of enactment, thereby eliminating the Deprizio issue from future cases. Could this bill also eliminate the Deprizio issue from pending cases, if courts considering Deprizio questions chose to follow the lead of Congress when interpreting the application of Section 550 of the Bankruptcy Code?

Mr. HEFLIN. Merely because this bill is otherwise to be applied prospectively

does not reflect continued viability of the Deprizio decision. Again, it must be emphasized that the Deprizio decision was and is not an accurate reflection of congressional intent.

Mr. MURKOWSKI: Madam President, I intended to offer an amendment that would have addressed a problem that many financial institutions currently face in dealing with bankrupt customers.

Under last year's budget reconciliation bill, Congress required all financial institutions to report to IRS discharges of indebtness in excess of $600. This information reporting requirement applies even if the debtor is not subject to tax on the discharged debt. This information reporting requirement places a very high cost on financial institutions and will most likely result in a flood of useless information being reported to the IRS.

IRS has interpreted the law to require financial institutions to file such information returns when debts are discharged in bankruptcy even though it is the bankruptcy court, not the financial institution, that actually discharges the debt. Unlike other forgiven debts that must be included in the debtor's income, debts discharged in bankruptcy in almost all cases are not deemed income to the debtor under the tax code.

Madam President, I believe that the appropriate filer on the information should be the bankruptcy court system. The courts have all the required information concerning the discharge of such debts and they have the capacity to consolidate such information into a single filing.

My amendment would have shifted the reporting requirement in bankruptcy cases from the financial institutions to the bankruptcy courts. However, I have been informed that the House of Representatives deems my amendment to be a revenue measure and, as such, cannot constitutionally be included in this Senate bill. I will therefore not offer my amendment on this time. But I hope that when the House adopts a bankruptcy reform bill it will include a provision addressing this problem.

Mr. HEFLIN. Madam President, I am sympathetic to the issue that the distinguished Senator from Alaska has raised. Many financial institutions in my State have expressed concern about these reporting requirements. And the Senator is correct that in nearly all consumer bankruptcies the discharged debt will not be deemed income for tax purposes.

I believe the Senator's proposal to require the bankruptcy trustee to report this information would be an appropriate solution to this problem. And I appreciate the Senator's decision to withdraw his amendment. If the House includes such a measure in its bankruptcy bill, I would certainly support the measure.

Mr. MURKOWSKI. I thank the distinguished chairman of the Judiciary Committee for his assistance on this important issue.

Mr. SASSER. Madam President, I would like to engage my distinguished colleague, the chairman of the Subcommittee on Courts and Administrative Practice in a brief colloquy concerning State laws on the timing and perfection of purchase money security interests and how they relate to the enabling loan preferential transfer exception found in section 547 of the Federal Bankruptcy Code.

Mr. HEFLIN. Yes, Madam President, I would be happy to do so. First, let me point out that under current Federal law a trustee may not avoid a transfer that creates a purchase money security interest in property acquired by a debtor that is perfected on or before 10 days of the debtor receiving possession of the property. The Judiciary Committee approved language to extend the Federal time period from 10 to 20 days.

Mr. SASSER. Yes, Madam President. The changes made by the committee will be a significant improvement to Federal bankruptcy law, and will provide creditors with sufficient time to perfect their security interest. Since the Senate is addressing the purchase money security issue, I thought it would be advisable to clarify a related issue that has caused unnecessary litigation throughout the country and in my home State of Tennessee.

The issue is whether State laws that allow a longer period of time to perfect a lien by allowing the creation of the lien to "relate back" to an earlier date contravene the Federal Bankruptcy Act. While Federal bankruptcy courts have long recognized that State law defines and governs the manner and timing of motor vehicle lien perfection, there has still been some dispute in the lower courts regarding State "relation back" statutes.

Under most state motor vehicle title perfection laws, if the requisite steps necessary for perfection are completed on a timely basis, the date of perfection "relates back" to the date the security interest was created or attached. These are commonly known as "relation back" laws. For example, Tennessee has a "relation back" State titling law that allows creditors of motor vehicles 20 days to perfect the lien to protect their security interest.

Although the new change in Federal law to 20 days would protect States like Tennessee, there are States that allow longer than 20 days to perfect the lien and have "relation back" laws that take into account each State's consideration of what is commercially reasonable and necessary to perfect a motor vehicle lien. For example, the documents necessary to perfect used car titles subject to payoff held by out-of-state institutions are not readily available. This causes a delay in the perfection process.

These "relation back" statutes protect the lien holder since the lien holder usually is not responsible for the delay. In addition, a 30 day "relation back" law is the model set out by the Uniform Vehicle Code and Model Traffic Ordinance.

Mr. HEFLIN. The Committee's decision to increase the time period to 20 days was proposed to conform bankruptcy law practices to most State's practices.

I would like to clarify just one point with the Senator from Tennessee, however. That is that while the date of perfection is determined by State law, including these "relation back" statutes, they do not affect the time of transfer pursuant to section 547. Would the Senator from Tennessee agree on that point.

Mr. SASSER. Yes indeed, Madam President. That would be my view also. The "relation back" provision merely relates to determining when a security interest in a motor vehicle is perfected in accordance with State law. Clarifying that "relation back" statutes are consistent with the Federal law does not change the uniformity of the Federal law. As the Chairman knows, Federal uniformity is keyed to the date on which the debtor receives possession of such property which then activates the running of the 20 day-period under section 547.

Mr. HEFLIN. On this point, I wonder whether the Senator from Tennessee could cite any Federal court decisions as persuasive authority on this matter.

Mr. SASSER. It is my understanding, that every appellate circuit that has examined this issue has held that State laws that allow the timing of perfection to "relate back" to an earlier date are consistent with and not in conflict with Federal bankruptcy law in general, and section 547 in particular. I would note for the chairman *In Re Basenlehner*, 918 F.2nd 923 (11th Cir. 1990); *In Re Hesser*, 984 F.2nd 345 (10th Cir. 1993). The eleventh circuit came to a similar conclusion in the case of *In Re Howard*, 920 F.2nd 887 (11th Cir. 1991).

I would say to the chairman that my purpose in this discussion is to establish that, although there is no statutory language to codify these court cases, they are consistent with Federal bankruptcy law.

Mr. HEFLIN. I would say to my colleague that it is appropriate at this time for the Senate to state its intent to confirm the interpretations of these circuits.

Mr. SASSER. I thank the chairman for his courtesy in engaging in this discussion and for clarifying this point.

Mr. GORTON. Madam President, I am pleased to be a cosponsor of the bankruptcy reform bill which is before the Senate today. I wanted to acknowledge and compliment the chairman of the committee in particular for including one provision which is especially

important to the largest employer in my State, the Boeing Co. This provision is a clarification of section 1110 of the Bankruptcy Code.

Section 1110 of the Bankruptcy Code provides special protections to those who finance or lease aircraft. Under these provisions, in the event of a bankruptcy, a debtor must within 60 days either agree to perform its obligations under the terms of the lease or must allow the lendor or lessor to retrieve the aircraft. In other words, if an airline goes into bankruptcy, the company that has financed the sale of the airlines' leased planes will be able to get the plane back after 60 days. This is extremely important to both the manufacturers of aircraft and the airlines.

As a member of the National Commission to Ensure a Strong Competitive Airline Industry, I strongly supported the clarification of section 1110. The language included in this bill today will encourage traditional aircraft lenders to get back into the marketplace. It will result in lower charges to the airlines for financing aircraft as the additional risk of the present uncertain situation will be removed. Aircraft are great collateral; their value is high and their depreciation low. But, in the present situation, airlines are being charged a premium only because the financier must cover the unlikely situation of a bankruptcy situation where assets, including aircraft, are frozen. This provision removes that risk. The result will be lower costs to the airlines. Instead of using their cash to pay extra premium costs, their funds will be freed up to get on with the purchase of new aircraft. This provision is good for the airlines, good for Boeing, and most especially good for many thousands of workers and their families in Puget Sound.

SBIC BANKRUPTCY REFORM PROVISION

Mr. BUMPERS. Madam President, I rise in support of S. 540, the Bankruptcy Reform bill, and ask that the following remarks pertaining to section 208 of the bill be included in the RECORD.

A few years ago, some failing SBIC's discovered they could thwart the Small Business Administration's [SBA] efforts at recovery by using the bankruptcy code and filing under chapter 11 as a debtor in possession. This allowed the failed or failing SBIC management to continue to run the company and receive salaries, often at levels well above the amount the SBA would have approved, and to pay significant amounts for attorneys, accountants and other services.

In an infamous case in 1989 called River Capital Corp., the Bankruptcy Court for the Eastern District of Virginia discharged the SBIC debtor from paying $35 million in principal and interest to the Government. Several other large bankruptcy filings soon followed. Under an SBA receivership, which was the traditional method of liquidating failed SBIC's, millions of dollars lost in bankruptcy could have been used instead to repay SBA and taxpayers. River Capital and other outrageous cases were among the issues examined in a series of hearings held by the Senate Small Business Committee beginning May 9, 1990.

Fifteen SBIC's have obtained protection under chapter 11 of the Bankruptcy Code over the last 4 years. SBA had provided over $125 million in leverage to these SBIC's. If SBA had been appointed receiver or obtained an alternative liquidation in such cases, it would have had an infinitely better chance to recover at least part of these funds.

An SBIC's ability to avail itself of the use of the Bankruptcy Code has proven extremely detrimental to the liquidation and collection efforts of the Small Business Administration.

As a subordinated and unsecured creditor, SBA's ability to recover on a failed SBIC's indebtedness is compromised when an SBIC avails itself of the bankruptcy provisions of the Bankruptcy Code; the indebtedness to SBA is paid only if funds are left over after other, secured creditors are paid and fees are paid to management.

Prohibiting SBIC's from seeking bankruptcy protection, as this bill does, would result in greater savings for the SBA and the taxpayer because administrative costs associated with bankruptcy proceedings are higher than the costs associated with SBA receivership proceedings.

As receiver, the SBA is able to investigate thoroughly the SBIC operation and remove management if they are incompetent, self-interested or dishonest. Bankruptcy proceedings allow failed SBIC's to continue to pay their managers handsomely and to speculate with Government money.

There is precedent for this proposal: Congress has seen fit to deny the use of the bankruptcy code to other entities which have Government backing or for which there exists a sufficient public policy reason, including railroads, banks, savings and loan associations, credit unions, and insurance companies. SBIC's are closely regulated entities which would not exist without the support provided by SBA.

Companies like SBIC's and those listed above—railroads, savings and loan associations, credit unions, and insurance companies—which receive Federal financial assistance, should forgo the ability to seek bankruptcy in return for receiving Federal financial assistance.

This provision is strongly supported by SBA Administrator Erskine Bowles and by the Clinton administration, just as it was by the Bush administration when this bill was last considered by the Senate. I strongly commend Senator HEFLIN and the Judiciary Committee for including this provision in this Bankruptcy Reform bill and I urge my colleagues to support it.

I ask unanimous consent that the attached articles from the Wall Street Journal February 22, 1994, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Feb. 22, 1994]

AGENCY DEMANDS RESTRICTIONS ON SBIC BANKRUPTICES—QUICK CHAPTER 11 FILINGS NOW FORCE GOVERNMENT TO SWALLOW BIG DEBTS

(By Jeanne Saddler)

Washington—The Small Business Administration is moving to curb abuses in its venture-capital program. But it wants more help from Congress.

SBA officials say they will press lawmakers to pass legislation to bar failing small business investment companies, or SBICs, from escaping debts owed to the government by declaring bankruptcy. "We want Congress to act because we've found ourselves waiting at the gate too many times when licensees rushed to bankruptcy court," Robert Stillman, the SBA's new associate administrator for investment, said in an interview.

The Senate plans to consider legislation this year to close the bankruptcy loophole, but so far there isn't any matching bill in the House. Meanwhile, SBA officials say, the agency plans to begin a revamped SBIC program, including closer scrutiny of applicants, under reforms passed by Congress in 1992. The reforms had been delayed because of the impasse over the bankruptcy legislation.

Under the SBIC program, privately owned firms use a combination of federally guaranteed debt and private capital to help finance small businesses. Problems arose in the program in the late 1980s when scores of SBICs failed because of the recession and poor management. Although the SBA sold companies' remaining assets, taxpayers were left holding the bag for hundreds of millions of dollars of failed SBIC investment, leading Congress to pass a program reform law in 1992.

But in 14 of the cases, fast-moving entrepreneurs filed for bankruptcy before the SBA could claim any assets. Because the government is a subordinate debtor according to the law that established the program, more than $70 million of federal debt owed by the investment firms is likely to be wiped out. In one of the most serious cases, River Capital Corp. of Springfield, Va., spent $28 million in government funds on bad investments and filed for reorganization under Chapter 11 of the Bankruptcy Code. The court eliminated its debt.

The Senate passed legislation last year to bar SBICs from seeking bankruptcy protection from government debts, but a companion measure died in the House. Sen. Dale Bumpers, the Arkansas Democrat who heads the Small Business Committee, says he plans to try again to pass the bill. But the outlook is uncertain in the House, where legislation last year failed to win the backing of Rep. Jack Brooks, the House Judiciary Committee chairman.

Congressional aides won't speculate on why the provision didn't pass muster with Mr. Brooks or whether he will back a measure this year. But other industry and government officials believe the Texas Democrat

may propose and back the bankruptcy ban this year because the ban would technically add a bit of revenue to the federal budget.

Regardless of how the legislative differences are worked out, the SBA is now preparing to upgrade standards for licensing SBIC applicants. "We're going to license very hard," SBA Administrator Erskine Bowles said in an interview. "We'll only license highly experienced venture capitalists, and we'll make sure those people bring enough private capital into the companies."

A new licensing unit in the SBA's investment division will be responsible for the more intense scrutiny of applicants. The agency already has received preliminary applications for the reformed SBIC program, but Mr. Stillman said he is returning them until the final regulations are published so applicants can carefully scrutinize the new rules.

In a speech to a group of SBIC executives earlier this month, Mr. Stillman, who spent more than 30 years as a principal with Wall Street investment firms, said that quality of management will be a key to an SBIC's future success. "I like to say I've only made one mistake in my entire career, and that was the serious one of sometimes investing in the wrong people," he added in the interview.

Under the reforms passed by Congress in 1992, the SBIC program is now attracting increased interest because of a change in how the federal support is structured. In the original program, created in 1958 to encourage financial backing for high-risk ventures, investment companies got government funds through debentures which, like loans, require regular interest payments. Thus, the licensees often borrowed additional money to make interest payments while waiting for their basic investments to mature. Venture-capital investments typically take years to produce dividends or profits for their financial backers.

The new program will allow investors to use a new debt instrument called a participating security that some believe is better suited to long-term investments. The government, through the SBA, will hold a participating-security interest in the SBICs. That means the government won't be repaid until the investment company has retained earnings from its investments and is paying dividends to all its investors. Uncle Sam will also get a small share of profits from the SBIC's investments.

Fixing the SBIC program's remaining problems has taken on new importance. As reported, the Clinton administration's proposed budget for fiscal year 1995, which begins next Oct. 1, would more than double the loan funds available to the investment firms.

The SBA expects to license about 200 new SBICs, raising the total to 480 from 280 currently, with a combined total of private investment capital of $2.3 billion. Because those companies can gain double their private capital in government investment funds, Mr. Stillman said the companies will have access to about $4.5 billion in government investment dollars.

That nearly $7 billion in new venture-capital money available in fiscal 1995 would be in addition to the $3 billion now in the program, meaning the total capital available through the program would jump to $10 billion from $3 billion.

[From the Wall Street Journal, Feb. 15, 1994]

HOW TO LOSE FEDERAL MILLIONS AND OWE NOTHING

(By John R. Emshwiller)

A loophole in a federal small-business lending program helped an entrepreneur named Peter Van Oosterhout to charge American taxpayers $28 million for his own bad investments, regulators say.

Mr. Van Oosterhout, 62 years old, was also able to use some of this money to invest in a tiny Salt Lake City company whose stock price has soared, even as it has been losing money.

Mr. Van Oosterhout got the major part of his investment funds from the Small Business Investment Company program, in which privately owned firms, known as SBICs, use a combination of federally guaranteed debt and private capital to help finance small businesses. Currently, some 280 SBICs have about $850 million in government-backed debt—as well as $2.3 billion in private funds.

The SBIC program was created by Congress in 1958 as a way to help promote the growth of small businesses. To get SBIC status, investment firms have to apply to the Small Business Administration, which oversees the program. SBICs have helped hundreds of small businesses grow and prosper, including Apple Computer Inc. and Federal Express Corp.

The problem is that during the 1980s, when making risky investments was commonplace, hundreds of investments went sour, dozens of SBICs sank and taxpayers were left footing a bill that has been estimated at several hundred million dollars. The SBA has had to go to court in recent years to seize control of some six dozen failing SBICs in order to sell assets and try to recover at least some of the taxpayers' money.

Probably no single case better exemplifies the abuses in the program, say SBA officials, than that of Mr. Van Oosterhout and his SBIC, River Capital Corp., of which he is president and has been a major owner, regulators say.

Mr. Van Oosterhout had been a leading figure in the SBIC industry even before he became president and part owner of River Capital. In 1983, he was chairman of the National Association of Small Business Investment Companies. He helped establish River Capital, based in Springfield, Va., a few years later, and with about $7 million in private funds and $28 million from the government, he developed it into one of the country's biggest SBICs, financing dozens of companies.

The SBA wasn't able to recover any taxpayer dollars in the case of River Capital. Before it could seize control of the foundering firm, River Capital filed for protection under Chapter 11 of the federal Bankruptcy Code in 1989.

And there, regulators say, is the loophole. Congress designed the SBIC program to make the government a subordinate debtor. So in bankruptcy reorganization proceedings, the debts owed to the government can be canceled if the court finds there isn't enough money to pay off all the creditors.

The availability of bankruptcy offers a "sweet situation for the SBIC owner" in which the "government becomes the convenient fall guy," says Martin Teckler, deputy general counsel for the SBA. "It is a big problem."

Bankruptcy court eliminated River Capital's $28 million federal debt. Fourteen other SBICs have also filed for bankruptcy in the past several years, SBA officials say. Including River Capital, more than $70 million of federal obligations have been or are expected to be wiped out, says Mr. Teckler.

Federal officials say they believe fraud kept them from seeing the SBIC's problems sooner. Mr. Van Oosterhout is facing criminal charges in a Cleveland federal court on fraud, conspiracy and extortion charges stemming from his operation of River Capital. His trial is expected to begin sometime this year.

Mr. Van Oosterhout has pleaded not guilty to the charges. Neither he nor his attorney returned phone calls seeking comment.

The indictment charges him with being part of a "scheme to misrepresent" the financial health of River Capital and its investment portfolio in order to keep federal money flowing. For instance, two of the portfolio companies allegedly claimed equipment that they didn't actually own.

Along with three others, Mr. Van Oosterhout also allegedly tried to extort money from a businessman who supposedly was in debt to one of them. The four are charged with setting fire to the businessman's car and threatening his wife, according to the indictment.

River Capital is still in business, though it is no longer in the SBIC program. The company emerged from bankruptcy in 1991, still in possession of some of its federally backed investments.

One of those investments has turned into a winner. For a $1 million investment, starting in the early 1980s, River Capital's predecessor, which Mr. Van Oosterhout helped operate, picked up about 1.7 million shares of Alanco Environmental Resources Corp., a Salt Lake City company that owns some dormant mines and manufactures pollution-control equipment. Mr. Van Oosterhout has been an Alanco director since 1983.

Over the past 20 months, River Capital has sold more than one million Alanco shares, according to Alanco filings with the Securities and Exchange Commission. The filings didn't reveal what prices River Capital received for its stock, but it paid about 63 cents a share. In that period, Alanco traded in a range of about 63 cents a share to about $6. Recently, the stock has hovered around $5.

A woman who answered the phone at River Capital's office said all questions would have to be directed to Mr. Van Oosterhout.

Alanco's stock-market performance contracts sharply with its financial performance. With 19.4 million shares outstanding, its market value has surged to about $90 million, more than a threefold increase in the past year. Yet, in the past four years, the company has reported accumulated losses of $8 million, including a $4.1 million loss for fiscal 1993, ended June 30. Revenues for that year were just $10,987.

Alanco, however, has produced a steady stream of upbeat press releases—particularly concerning various pollution-control deals in China, including one "potential multibillion dollar" contract.

Alanco has also announced a series of financing arrangements over recent years, many of which never came to pass. And one that did— a $72 million credit line—was arranged by one Mario Renda through a New York City firm called Financial Security Corp.

In the early 1980s, Mr. Renda was a deposit broker who placed billions of dollars of deposits in thrifts and banks around the U.S. He was convicted or pleaded guilty in 1987 in three different courts to crimes ranging from bank fraud to racketeering to tax evasion. Prosecutors and investigators contended that Mr. Renda's crimes contributed to the demise of several dozen thrifts and banks, partly by arranging for fraudulent loans.

Brent Dyer, Financial Security's president, didn't return repeated phone calls. A woman answering the phone at Financial Security identified Mr. Renda as a vice president of

the company. Mr. Renda denies the title but admits he was, for a time in 1992, Alanco's marketing director. An Alanco spokesman says the SEC has been investigating the company's announcements but that the company has done nothing wrong. SEC officials decline to comment.

The SBA has been urging Congress to bar SBICs from seeking bankruptcy protection. A bankruptcy reform bill containing such a measure, passed the Senate last year but died in the House of Representatives.

Though the SBA has charged its SBIC regulations to give it more protection against bankruptcy losses, the agency still believes congressional action is necessary, says Mr. Teckler, the SBA's deputy general counsel. Otherwise, SBICs could continue to "stick it to the government," Mr. Teckler says.

Bankruptcy filings—selected small business investment company filings—SBA leverage at filing

	Millions
River Capital	$28.50
First Connecting SBIC	27.95
Capital Marketing	24.35
Questech Capital	12.00
Unicorn Ventures II	6.70
Unicorn Ventures	6.00
Continental Investors	5.00
Diamond Capital	4.00
Washington Ventures	3.25
Avdon Capital	3.00

Source: Small Business Administration.

Mr. GORTON. Madam President, I am pleased to rise today to express my support for the Bankruptcy Amendments Act of 1993. I am a cosponsor of this legislation, which serves as a long awaited reform of the Nation's outdated bankruptcy law. It is an attempt to streamline the prevailing system and to enhance the effectiveness of the Bankruptcy Code adopted in 1978.

The compelling need for bankruptcy reform was highlighted last year in hearings held by the Judiciary Committee. These hearings brought to light the fact that in 1992 alone, over 1 million bankruptcy cases were filed, a new record. Even as the economy improves, there are likely to be increasing numbers of bankruptcies for the foreseeable future, because individual debt loads continue to remain at high levels.

With this significant rise in the number of bankruptcies being filed, cases are backing up in our Nations courts, increasing the time necessary for individuals and firms to get back on their feet and again contribute to the Nation's economy. It is precisely this slowing effect on our economy that S. 540 is designed to correct.

I commend the chairman of the committee and the Senators who worked on this legislation for drafting this bill and its encompassing provisions which, I believe, will improve the current laws governing bankruptcy and help get the economy moving again. A streamlining of the Nation's bankruptcy system is long overdue and, if enacted, will be of benefit to every American.

The major provisions of this bill, together serve to improve the bankruptcy system which has been in place for 16 years. One of the most important sections of S. 540 would establish a new National Bankruptcy Review Commission to study the effectiveness of the current bankruptcy procedure and report on policy improvements. The bill also contains a number of specific measures directed at problems in the existing code and new ideas which will serve to expedite the bankruptcy process.

I urge my colleagues to join me today in support of the Bankruptcy Amendments Act of 1993. All Americans have an important stake in ensuring that our Nation's bankruptcy procedures operate efficiently and fairly so that individuals and corporations seeking bankruptcy protection may complete the process sooner and continue to contribute to our Nation's economic vitality. I believe that S. 540 is an important step in that direction.

Ms. MOSELEY-BRAUN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

ORDER OF PROCEDURE

Ms. MOSELEY-BRAUN. Madam President, I ask unanimous consent to proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MOSELEY-BRAUN. Thank you, Madam President.

(The remarks of Ms. MOSELEY-BRAUN pertaining to the introduction of S. 2034 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Ms. MOSELEY-BRAUN. I yield the floor and I thank Senator HEFLIN and Senator GRASSLEY for their indulgence in allowing me this time on the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. HEFLIN. I am under the impression Senator COCHRAN has an amendment.

Mr. COCHRAN. Madam President, I do have an amendment, and I hope to be able to offer it soon.

I was told the managers would like me to offer the amendment as soon as the distinguished Senator from Illinois completed her remarks. I was here on the floor for that purpose.

I understand now, though, the Senator from Ohio has some questions that he wants answered about the amendment. He is trying to get the answers, and I will be back about 5 o'clock to offer the amendment.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Madam President, as I indicated to my friend from Mississippi, I do not know enough about his amendment. I do not think I have any objections to it. I am not trying to stall him in going forward with it.

There are numbers of amendments that are kicking around right at the moment. And by 5 o'clock we will be able to see if we can work it out. If we can do it earlier, I will call him at his office and urge him to come back to the floor if he would.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. HEFLIN. Madam President, I would like to proceed with this bill and get this bill moving.

There are a number of amendments that we have that have been cleared by both sides, the Democratic amendments, Republican amendments, and all of this.

I am afraid we are getting caught up in playing games. I think each amendment ought to be like a barrel and stand on its bottom and on its own merits.

I would hope that as to both sides that indicated some matter pertaining to this we could proceed with the amendments that have been cleared by both sides. For example, there is an amendment by the Senator from California, who is presiding right now. There is no objection to it.

But we are getting into a situation of where because of an amendment that is controversial and may have to be voted on everything else is being held up. It is sort of a leverage situation.

I would hope that we could start proceeding on this and the amendments that are agreed to and go ahead with them.

Mr. COCHRAN. Madam President, will the Senator yield for a question?

Mr. HEFLIN. Yes.

Mr. COCHRAN. Is it my understanding from the remarks of the manager of the bill that the managers would like Senators to proceed to offer their amendments? Is that the understanding?

Mr. HEFLIN. Yes, we would like to do it. The Senator's amendment, I understood, was cleared by both sides.

If there are objections to it, do it, but I would like to proceed here and move forward and try to get as many of these amendments either adopted or withdrawn or voted on or in one way or the other if we could.

Mr. COCHRAN. If the Senator would yield further, I sympathize with the situation, and I am perfectly happy and prepared to send an amendment to the desk and lay it before the Senate. If there are discussions or questions, I will be happy to try to respond to them.

So, if that is the view of the managers of the bill, I am certainly happy to oblige and hope that we can answer whatever questions the Senator from Ohio or any other Senator may have about the amendment.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Madam President, I want to say to my colleague—and all three of us have been around here a long time—all three of us know

the procedures of the Senate are such that it is not too difficult, if you stay on the floor, to delay consideration of a matter. I do not intend to do that and I have no desire to do that.

But it is my understanding that certain amendments of the Senator from Ohio had been cleared. I now understand one of them may be in some controversy or some difficulty.

I came over to the floor in order to try to work out that amendment. Once that amendment is given a green light—and I do not believe it to be controversial—then it seems to me we might be able to pass about 15 or 20 amendments, including the amendment of the Senator from Mississippi, a number of the amendments of the Senator from Ohio, and a number of amendments of other Members of this body.

So if I have to stay here on the floor with reference to the amendment of the Senator from Mississippi, protecting the floor in order to get this—I am not at liberty and I am not in a position to try to work out the one more controversial amendment that seems to be creating the problem at the moment.

I am frank to say to both the Senator from Mississippi and the Senator from Alabama that I do not know why the amendment of the Senator from Ohio, which has to do with retiree benefits, is at issue or is a problem. I thought the matter had been worked out. As a matter of fact, the Senator from Ohio has retreated from an earlier position that he had taken with respect to the same matter, and an earlier position that this body adopted.

But I think that, if given a little time in order to try to work it out, I think that, hopefully, I will be able to do so. I am not sure where the stumbling block is. I do not mean to suggest either the Senator from Mississippi or the Senator from Alabama is the stumbling block, but I do not know that answer. I am waiting to discuss the subject with my staff, whom, I might say, I do not see on the floor at this very moment. They may be in the cloakroom.

I just urge both of my colleagues to just give me a little time, and I will be glad to get back in here. I do not have any really basic opposition to the amendment of the Senator from Mississippi.

Mr. COCHRAN. Will the Senator yield for a question?

Mr. METZENBAUM. Of course.

Mr. COCHRAN. If I understand what the Senator has said, he is going to obstruct or would be prepared to obstruct the passage of my amendment, which may be meritorious and to which there is no objection on either side for any reason, in an effort to try to get leverage to pass his amendment, which is controversial and with which many Senators may disagree on the merits? I do not know what the Senator's amendment is.

But is my understanding of what the Senator is stating to the Senate correct?

Mr. HEFLIN. Might I intervene here as a referee?

The PRESIDING OFFICER. The Senator from Alabama.

Mr. HEFLIN. No. 1, Madam President, there are two amendments that I know of which Senator METZENBAUM has offered that are agreeable, but they are being held hostage. There are, on the other hand, because of that, or maybe for other reasons, Senator COCHRAN's amendment and several other amendments on that side of the aisle which are being held hostage.

Now, what I am saying is, let us quit this leverage and hostage holding. Let us go ahead and pass all amendments, and the amendment that is causing all the fire and creating all the controversy, either work it out or vote it up or down.

I do not think we ought to hold hostage these other amendments on either side. And, in effect, maybe Senator METZENBAUM is wrong; but, on the other hand, it started out that they were refusing to allow Senator METZENBAUM's amendment, on which there had been no controversy, to be passed.

So it is a matter of, again, Newton's third law of motion, that there is a corresponding force that is affected. It comes in one side, then the force comes back from the other side.

So let us try to get it done. I am trying to get the bill passed and to do it as harmoniously as I can. But there are a lot of leverages and there is a lot of hostage holding and that sort of thing. Let us not play games. Let us proceed with the bill.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Madam President, there is sometimes a time to fight; sometimes a time to agree; and sometimes a time to suggest the absence of a quorum, which I do.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BIDEN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Madam President, I do not know how many hours, days, months, and years, my friend from Alabama has been on this legislation, or its antecedent legislation. It seems as though every time he gets close, very few people have any disagreement with the underlying substance of what he is attempting to do, and what needs to be done is obvious. And yet he always seems to get himself caught in a crossfire on matters that do not directly relate to the legislation he brings out of the Judiciary Committee, out of his subcommittee, and to the floor.

I hope that whatever ancillary issues there are, unrelated issues there are, could be resolved in another context, because we really should be moving ahead with this legislation.

As I said, he has worked tirelessly on it. No one knows more about the issue than the distinguished senior Senator from Alabama.

And, besides, I do not want it back in the Judiciary Committee again. I would like very much for him to succeed in seeing this moved.

But I never underestimate the tenacity and the ability of my friend from Ohio and those on the Republican side who tend to be his nemesis, or he theirs.

I hope that sooner, rather than later, order will prevail and our friend from Alabama, the manager of this legislation, will be able to move it off his plate, off the Senate floor, to the House, to a conference, and to the President. I suspect that is his desire.

I hope that is what we can do, because I ask the Senator from Alabama a question. How long has this been going on, trying to resolve the underlying issues here?

Mr. HEFLIN. Well, it has been going on about two Congresses, I would say. The Senate passed it before, unanimously, 97 to zero. We passed the conference report. The House failed to pass the conference report in the last session of the last Congress.

We are moving ahead this time, and hopefully the House can move on it.

Of course, tactics are part of the game in the parliamentary proceedings, and somebody holds something hostage. But I think we ought to try to determine these things on the merits of each and every individual amendment.

I appreciate the kind remarks of the distinguished chairman of the Judiciary Committee. He has been very tolerant of all of our activities on various and sundry bills. He has to face, many times, filibusters in his own committee—the only committee that I belong to where usually you will have a filibuster in a committee—but he always comes through. Somehow or another, we will come through. We will persevere in the long run. But it takes time, and it is a little frustrating.

Mr. BIDEN. My mother used an expression that she heard used somewhere else. I think it comes out of some work of literature. When I say, "Mom, in the long run—" she says, "Honey, in the long run, we'll all be dead."

In the long run, we will be here 2 years later still working on this legislation. I hope we can move it.

As I said, no one has worked any more tirelessly producing a solid piece of legislation, badly needed, than the

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Senator from Alabama. I think we should reward his hours and, in this case, years in the vineyard by moving on it quickly.

Again, the vast majority of the Congress is for this. The courts are looking for it, and I believe the President is, as well.

So I thank him and again implore my colleagues to let us move on to the merits of the legislation, if we can.

Mr. HEFLIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. WELLSTONE). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the vote ordered for 5:30 p.m. be moved to 5:45 p.m., with all other provisions of the previous agreement remaining in effect.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEFLIN. The reason for that is I understand there have been several Senators called to the White House and therefore they will be back by that time.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1638

(Purpose: Committee amendments)

Mr. HEFLIN. Mr. President, I send to the desk an amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. HEFLIN] proposes an amendment numbered 1638.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is located in today's RECORD under "Amendments Submitted.")

Mr. HEFLIN. Mr. President, this is a managers' amendment by which we try to make a lot of technical changes. There are some issue changes that have come to the attention of the Subcommittee on Courts after the markup of the bill by the Judiciary Committee. The issues which are included in this amendment are related directly to concerns in bankruptcy that should be addressed in this bill.

We have included a number of changes which are in response to the letter which the Department of Justice sent to the committee. This letter was a review of S. 540, as well as their suggestions as to form and substance of some of the provisions in the bill.

First, in response to the Department of Justice concern, the effect of S. 540 regarding curing mortgage arrearage under section 1322 of the code, we offered the suggested changes by adding specific language to the amendment in section 301 of S. 540 to ensure that there is finality to the time period in which a debtor may cure residential mortgage arrearage under chapter 13 plans. Without this language, the present provision could have a detrimental effect on residential mortgage markets in over 17 States.

To ensure maximum price at sale for the debtor and to give the purchaser of foreclosed property, as well as the mortgage holder, some sense of finality, we have amended section 301 to include the words "prior to the consummation of a foreclosure sale" after the word "judgment" in paragraph C.

Second, we have added additional language to the provision which encourages the circuits to set up bankruptcy appellate panels to hear appeals from bankruptcy courts. The Department of Justice voiced concern in its letter over whether the amendments in S. 540 were too restrictive on the circuits.

To address this concern, we have added an additional standard for the circuit council to consider when determining whether or not to adopt a bankruptcy appellate panel service.

Third, we offer in this amendment some other changes suggested by the Department of Justice:

To amend section 105 by replacing the word "subsection" with "section" in the two places it appears in subsection (D);

To amend subsection 204 of S. 540 to list the correct subsection, 365(D)(3), which is being amended;

To correct the reference to the subparagraph in section 216 of S. 540;

To amend section 302 of S. 540, to avoid confusion with an existing statute, 18 U.S.C. section 3613(F), which provides no fine imposed under the Sentencing Reform Act is dischargeable in bankruptcy. Thus, we offer the additional language "unless otherwise provided by 18 U.S.C. section 3613(F)," be inserted after the words "extent such fine exceeds $500."

A significant part of this amendment is the deletion of the entire chapter 10 provisions in S. 540. We still firmly believe there is a need in the code to allow small business to reorganize cheaply and expeditiously. After much time and discussion with interested parties, we have crafted amendments to chapter 11 which will accomplish much of what we set out to accomplish in chapter 10.

The next addition that we have included in the managers' amendment standardizes the treatment of residential home mortgages throughout the code. A debtor is not allowed to cram down such a mortgage in proceedings under chapter 13 and 7. This same protection of the home mortgage industry is not provided under chapter 11 of the code.

We propose to extend to chapter 11 the same language that is included in section 306 of S. 540. By extending this same language to apply to home mortgages under chapter 11, we make sure the congressional intent that a debtor not be allowed to modify the contract on their home mortgage is sustained throughout the code.

Next, we have introduced substitute language to amend section 207 of S. 540 which deals with antialienation of retirement plans. This language makes clear Congress's intent to protect and provide fair treatment for pension plans and their members. In this substitute amendment, we have included the teachers and public employees retirement systems which provide retirement disability and other benefits to nearly 9 million active retired teachers and other public employees.

The amendment to section 110 of this bill, premerger notification, is an accepted compromise of all parties concerned. The changes in this section are designed to put bankrupt mergers on the same fast track that cash tender offers have outside of bankruptcy. As you know, time is an important factor in the sale or reorganization of a bankrupt company, and this amendment will make sure that sales of these companies move swiftly.

There is also a provision in this amendment which will assure the court that it has the power to issue an injunction and create a trust which is used for the payment of claims and demands pursuant to a reorganization plan.

The amendment contains a modification of section 113, service of process, in the bill. The new language addresses the need to serve by certified mail federally insured deposit institutions. This will ensure that the cost of administering the estate will be kept at a minimum.

We have also extended for bankruptcy and other nonlife-tenured judges similar life insurance benefits now available to all article III judges. This provision was included in S. 1673 and passed as a part of S. 1569 but was deleted by the House for jurisdictional reasons. It allows these judges the option of continuing to pay premiums throughout their retirement and thus maintain the value of their life insurance and provide security for their families.

The amendment will address needed changes in section 365 of the code. This provision will protect the leasehold

mortgagee as well as the tenants in the development of a ground lease property. The language is to simply make clear the intent of the section to protect the rights of lessees and mortgage lenders.

The amendment contains noncontroversial provisions that have been crafted with input from bankruptcy experts. I am confident that the inclusion of these provisions in the bill will help to create a bill that will address many important bankruptcy issues.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. If I could, and I cannot do better than the chairman has done on the explanation of this amendment, I would take just a little bit of time to stress a couple of points within it that I think need to be explained because these are things, at least one of them on the original amendment coming out of committee, where some concerns were expressed and probably the way they have been addressed here in the rewrite makes the final product even better than when it came out of committee because, as passed by the committee, the bill would have created a separate chapter 10 pilot program relating to the bankruptcy procedures for small business.

The managers' amendment deletes those provisions. Instead, the managers' amendment will modify chapter 11 and streamline the process of small business bankruptcies. At the same time, these changes will take effect on a nationwide basis immediately upon enactment.

There were concerns raised during the time that this bill came out of committee and the present about the constitutional requirement for uniformity of bankruptcy laws around the United States. Obviously, the pilot programs would not be uniform, and so we felt we had to satisfy the constitutional requirements that they be uniform, and we should particularly express our appreciation to Senator HATCH for his cooperation in working on this issue as well as Senator HEFLIN's efforts.

The managers' amendment will also prohibit cramdowns of residential mortgages in chapter 11. The bill was always designed to prevent these cramdowns and was originally drafted to prohibit individual residential cramdowns in all chapters open to individual debtors. However, the Supreme Court unexpectedly ruled that chapter 11 filings could be brought by individuals as well as by business debtors. To ensure that a loophole that would otherwise exist be closed, this managers' amendment includes provisions extending the same cramdown language to Chapter 11 as well.

So I fully support this amendment and feel it is a good addition to the original legislation.

I yield the floor.

Mr. HEFLIN. Mr. President, the manager's amendment also includes a provision passed by the Senate last Congress to rectify a serious inequity in the current retirement system for Federal judges. This provision was included in S. 1673, and passed as part of S. 1569, last Congress, but delete by the other body for jurisdictional reasons. I believe it is crucial to correct this injustice.

In 1984, Congress sought to compensate Federal judges in some way for the fact that they, unlike all other Federal employees, may not retire at age 55, but must wait until 65. At age 65, life insurance options are fairly limited and expensive. Thus we granted Federal judges the option of maintaining their optional life insurance, at cost to them. Unfortunately, article I judges were not included. This amendment provides these valuable members of the Federal judiciary the same opportunity as article III judges currently enjoy.

Under the current system all Federal employees receive basic life insurance in an amount equal to their annual salary. All employees may opt to pay for additional life insurance at a value equivalent to one to five times their annual salary. The monthly insurance premiums vary depending on the level of coverage they choose and their age. Upon retirement article I judges no longer pay life insurance premiums, but they witness a decrease in their policy value by 2 percent per month. The security they have built up for their family and the substantial premiums they have paid for years of dedicated service essentially dwindles to nothing within 4 years. This amendment would give bankruptcy and other non-life-tenured judges the option of continuing to pay premiums throughout their retirement, and thus maintaining the value of their life insurance and providing security for their family. Upon the death of a judge, the full value of the life insurance policy would be available for his or her survivor.

This amendment would eliminate the discrepancy between retiring article III judges and retiring article I judges, at little, if any, cost to the Government. The Congressional Budget Office has done an initial analysis on the cost of this program and concluded that if there is low participation by article I retirees, there could be a net savings to the Government of $1 to $5 million. At worst, there would be a cost of $1 to $5 million. Despite our extending this option to article III judges in 1984, rates have gone down over the past decade and the Office of Personnel Management reports a current significant surplus in the fund.

The men and women who choose to serve as U.S. bankruptcy, magistrate and claims court judges are dedicated, intelligent, and talented individuals. They represent 45 percent of the Federal judiciary. Most have given up lucrative careers in the private sector to devote their lives to public service—improving the administration of justice throughout the United States. We need to maintain this level of excellence by providing programs that continue to attract strong candidates to the Federal bench. I hope that you join Senator SASSER and myself in support of this mission and its goal of providing retiring article I judges with a fair and cost-effective life insurance program.

Mr. SASSER. Mr. President, I would like to thank my distinguished colleague from Alabama for including in his substitute amendment a provision passed by the Senate during the last Congress to rectify a serious inequity in the current retirement system for Federal judges. As a member of the Subcommittee on Civil Service, I am acutely aware of the need to maintain an equitable benefits package for all Federal employees.

Currently, Federal judges are alone among Federal employees unable to retire at age 55, under the so-called rule of 80. We sought to offset this inequity by enacting, in 1984, the Bankruptcy Amendments and Federal Judgeship Act. This legislation allowed federal judges to maintain their optional additional life insurance after retirement, recognizing the limited availability of insurance options—and the costliness of them—to 65-year-old retirees.

Unfortunately, article I judges—non-life-tenured judges were not included. Today we will redress this oversight.

The current system provides article III judges with a valuable option—to continue their optional additional life insurance upon retirement. Article I judges—and those article III's who do not take advantage of this option—cease to pay premiums upon retirement, but see the value of their policy drop two percent per month. Thus, by age 69, despite their years of service and payments in the FEGLI fund, these retired judges are left without this valuable financial protection for their spouse.

The provision that the chairman has included in S. 540 would eliminate the discrepancy between retiring article III judges and retiring article I judges, at little, if any, cost to the government. As Chairman Heflin has indicated, there could even be a net savings to the Government. As a member of Civil Service Subcommittee, I believe there is a need for this legislation and that it is essential to maintaining a fair life insurance and retirement package for Federal employees.

I want to tell you all about a distinguished constituent of mine, Judge Ralph Kelley, of Chattanooga. He began his career at age 14 as a page to one of the greatest men to ever serve in Congress, Sam Rayburn. He went on to

serve as assistant Attorney General for Hamilton County, TN, as a member of the Tennessee House of Representatives, and was elected mayor of Chattanooga in 1962. He was a mayor of Chattanooga during the time that the civil rights movement reached its peak, and guided that city wisely through some very rough times.

In 1969, Ralph Kelley went on to serve eastern Tennessee as a bankruptcy judge, a position he had held now for 25 years. He has dedicated his career to public service. He has enjoyed a successful career, the respect of his colleagues, and the appreciation of his fellow Tennesseans.

I tell my colleagues this because Judge Kelley is an example of the kind of dedicated and compassionate public servants who are disadvantaged by the current system. He has opted to protect his wife and family by investing—for 25 years—in a life insurance policy with the Federal Government.

However, as soon as he retires, the value of his life insurance will decrease by 2 percent per month, and in 4 years, he will have nothing to leave his wife in the way of financial security. This provision will not affect a lot of people, but it will dramatically affect a few, such as Ralph Kelley, who have devoted their lives to public service.

I thank the chairman for including this valuable provision and I urge my colleagues to support it.

Mr. HEFLIN. Mr. President, I urge adoption of this amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 1638) was agreed to.

Mr. HEFLIN. Mr. President, I move to reconsider the vote.

Mr. GRASSLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HEFLIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEFLIN. Mr. President, I ask unanimous consent that Senator CAMPBELL of Colorado be added as a cosponsor to the amendment offered previously today by Senator BROWN of Colorado dealing with the supplemental injunction.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEFLIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEFLIN. Mr. President, I will ask unanimous consent that a letter from the Congressional Budget Office, dated February 2, 1994, be printed in the RECORD, along with the attachments therein. This basically shows that the savings over the year for 1994 will amount to about $52 million savings by the adoption of this bill.

I ask unanimous consent that this material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL BUDGET OFFICE,
Washington, DC, February 2, 1994.

Hon. HOWELL HEFLIN,
Chairman, Subcommittee on Courts and Administrative Practices, Committee on the Judiciary, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed revised cost estimate for S. 540, the Bankruptcy Amendments Act of 1993. This estimate supersedes our transmittal of October 12, 1993, and incorporates information that we have recently received from the Joint Committee on Taxation regarding the revenue impact of section 115 of the bill.

Enactment of S. 540 would affect direct spending and receipts. Therefore, pay-as-you-go procedures, as required by section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985, would apply to the bill.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ROBERT D. REISCHAUER,
Director.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 540.

2. Bill title: Bankruptcy Amendments Act of 1993.

3. Bill status: As reported by the Senate Committee on the Judiciary on October 28, 1993.

4. Bill purpose: S. 540 would:

Authorize the appropriation of $1.5 million to establish a National Bankruptcy Review Commission to investigate and study issues relating to the Bankruptcy Code;

Establish a new bankruptcy chapter (chapter 10) for small businesses with debts less than $2.5 million, to be tested in eight districts for a three-year period;

Prohibit small business investment companies (SBICs) from filing for bankruptcy under chapter 7;

Increase the debt limit for filing a chapter 13 case from $350,000 to $1,000,000 and remove the limit altogether in certain cases;

Require that bankruptcy trustees, at meetings of creditors, ask debtors a series of questions regarding the consequences of filing for bankruptcy;

Expand the list of cases for which the filing of a bankruptcy petition does not operate as a stay;

Establish civil and criminal penalties for persons who negligently or fraudulently prepare bankruptcy petitions;

Amend current law with respect to a debtor's pension fund obligations; and

Make many other changes and additions to the federal laws relating to bankruptcy.

5. ESTIMATED COST TO THE FEDERAL GOVERNMENT:

[By fiscal year, in millions of dollars]

	1994	1995	1996	1997	1998	1999
Revenues: Estimated revenues	6	27	17	−1	(1)	(1)
Direct spending:						
Estimated budget authority	−52	0	(1)	(1)	(1)	(1)
Estimated outlays	−52	0	(1)	(1)	(1)	(1)
Authorizations:						
Estimated authorization of appropriations	−1	2	0	0	−1	−1
Estimated outlays	−1	1	(1)	(1)	−1	−1

[1] Less than $500,000.

Note: Negative revenue numbers indicate a loss of revenues and an increase in the deficit.

The spending effects of this bill fall within budget functions 370 and 750.

Basis of Estimate: Revenues. CBO expects that the federal government would lose revenues because of bankruptcy cases filed under chapter 10. Under current law, such cases would be filed under chapter 11 and quarterly fees would be paid, with 60 percent of the fees recorded as governmental receipts and the remainder as offsetting collections. Under S. 540, no quarterly fees would be required for cases filed under chapter 10. CBO estimates that, net of income and payroll tax offsets, the resulting revenue loss would likely be about $1 million annually over the three-year test period, beginning in fiscal year 1995. This estimate assumes that quarterly fees would average about $2,000 per case per year, and that about 1,000 such cases would be filed annually under current law. This estimate also assumes that the eight districts selected will be average in terms of the number and size of bankruptcy filings. If the districts chosen are above average in terms of the number and size of bankruptcy filings, the revenue loss would be larger.

Section 115 of the bill would expand the list of cases for which the filing of a bankruptcy petition does not operate as a stay. This change would result in the earlier collection of taxes in certain situations. The Joint Committee on Taxation estimates that this provision would generate additional revenue of $52 million over the fiscal years 1994–1996 and small amounts in subsequent years.

A number of other provisions could affect revenues, but we expect that the budgetary impact would be insignificant. The government would lose revenues to the extent that small business investment companies would no longer file for bankruptcy under chapter 7, and thus would no longer pay the bankruptcy filing fee. Because there would be few such cases, CBO does not expect this loss to be significant.

S. 540 also would increase the debt limit for filing a chapter 13 case from $350,000 to $1,000,000 and would eliminate the limit altogether in certain cases. These changes could result in a shifting of cases from chapter 7 to chapter 13. To the extent that additional cases are filed under chapter 13, revenues would increase by $45 per case. CBO does not expect this additional revenue to be significant, because the number of additional chapter 13 cases would be small.

Finally, section 304 would impose civil and criminal penalties for persons who negligently or fraudulently prepare bankruptcy petitions. Both criminal and civil fines increase receipts to the federal government. Criminal fines would be deposited in the Crime Victims Fund and would be spent in the follwing year. CBO does not expect this additional revenue or direct spending to be significant, however, because the proposed penalties are expected to deter such activity, which is not widespread.

Direct Spending. Under current law, SBICs may self-liquidate, file for bankruptcy under chapter 7 or reorganization under chapter 11, or liquidate pursuant to receivership laws under the aegis of the Small Business Administration (SBA). Under S. 540, SBICs would be prohibited from filing for bankruptcy under chapter 7. As a result, more SBICs would be liquidated using the receivership laws under the supervision of the SBA. This change would result in additional collections by the SBA from SBIC loans that have already been made and guaranteed. Since 1990, roughly 50 percent of liquidating SBICs have chosen to use chapter 7. When a SBIC seeks protection under chapter 7, the SBA recovers little or nothing, as the SBA's claim is unsecured and subordinated to the SBIC's other debts. When the SBA has acted as receiver, it has recovered up to 100 percent of its guarantee. In addition, a SBIC's liquidation by a court-appointed receiver can be substantially more costly than a similar liquidation with the SBA acting as receiver.

CBO estimates that these changes would result in increased collections to the federal government totaling $39 million over the 1994–1998 period and additional amounts thereafter, resulting from guarantee authority that has already been provided. Under credit reform, such changes in receipts are recorded in the budget on a present value basis. We estimate the resulting budgetary impact over the life of the guarantees to be a decrease in outlays of $52 million in fiscal year 1994.

Section 207 would clarify current law to protect pension plans and would restrict a bankruptcy court's ability to require a pension plan to disburse pension funds to a creditor. This amendment could result in savings to the federal government by reducing the Pension Benefit Guaranty Corporation's (PBGC's) liability in the event that a pension plan is terminated and underfunded. Because of the uncertainty of future claims to the PBGC, a precise estimate of the potential savings is not possible at this time.

Spending Dependent on Appropriation Action. CBO assumes that the $1.5 million authorized to be appropriated for the National Bankruptcy Review Commission would be appropriated for fiscal year 1995 and spent in fiscal years 1995–1997.

CBO expects that recoveries from liquidating SBICs would increase for guarantee authority provided after 1992 as well as for that already provided. The latter has a direct spending impact, as discussed above, and the former would affect future appropriation actions. As a result of credit reform, the Congress must annually appropriate subsidy budget authority for credit programs. This subsidy budget authority is essentially the amount a credit program is expected to lose, on a net present value basis, on loans or guarantees made during that fiscal year. Increased recoveries would decrease the amount the program would be expected to lose, and thus decrease the subsidy budget authority the Congress would have to appropriate for a given level of loan guarantees. CBO estimates that prohibiting SBICs from seeking protection under chapter 7 would decrease the necessary subsidy appropriation for the SBIC program from 15.4 percent of the face value of loan guarantees to 14.9 percent. The subsidy rate for minority enterprise SBIC direct loans would decline from 38.1 percent to 37.6 percent, and the subsidy rate for minority investment company loan guarantees would decline from 28.9 percent to 28.4 percent. Because of these declines in subsidy rates, CBO estimates that the SBA would need $1 million less in annual subsidy appropriations to maintain these programs at the baseline levels of activity.

CBO estimates that the government would lose offsetting collections—about $1 million annually in fiscal years 1995 through 1997—associated with cases that would be filed under chapter 10. Under current law, such cases would be filed under chapter 11 and quarterly fees would be paid. Forty percent of the fees are recorded as offsetting collections to the U.S. trustee system fund and are available for spending from that account. The loss of fees would reduce the amount available for spending by the trustee system from offsetting collections and thus would necessitate an increase in appropriations if the same level of activity is to be maintained. This estimate therefore includes $1 million a year in additional appropriated spending for the three years of the test program.

The requirement that bankruptcy trustees ask debtors a series of questions at meetings of creditors would probably not impose a significant burden on the U.S. trustees. Currently, private trustees attend meetings of creditors, but U.S. trustee program personnel generally do not. To the extent that private trustees would be able to fulfill this requirement, any additional costs to the federal government would probably not be significant. However, if this provision were interpreted to require that U.S. trustee program personnel attend all meetings of creditors and ask debtors the series of questions, the additional staffing costs associated with this requirement would be $10 million to $20 million annually.

Other provisions of the bill would not result in significant costs to the federal government.

6. Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1998. CBO estimates that enactment of S. 540 would affect direct spending and receipts; therefore, pay-as-you-go procedures would apply to this bill. The following table summarizes the estimated pay-as-you-go impact of S. 540.

[By fiscal year, in millions of dollars]

	1994	1995	1996	1997	1998
Change in outlays	−52	0	0	0	0
Change in receipts	6	27	17	−1	0

7. Estimated cost to State and local governments: None.

8. Estimated comparison: None.

9. Previous CBO estimate: CBO prepared a cost estimate for S. 540 on October 12, 1993, which did not include any revenue effects of section 115. This estimate supersedes the previous one and incorporates an estimate of the budgetary impact of section 115 recently provided by the Joint Committee on Taxation. It also projects the budgetary impact of the bill through fiscal year 1999.

10. Estimate prepared by: Mark Grabowicz, Susanne Mehlman, and John Webb (226–2860); Wayne Boyington (226–2820); Melissa Sampson (226–2720).

11. Estimate approved by: C.G. Nuckols, Assistant Director for Budget Analysis.

Mr. HEFLIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CONRAD). Without objection, it is so ordered.

AMENDMENT NO. 1639

(Purpose: To amend section 507(a)3 of title 11, United States Code, to give priority to certain claims of independent sales representatives)

Mr. COCHRAN. Mr. President, I send an amendment to the desk and ask that it be reported.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], proposes an amendment numbered 1639.

Mr. COCHRAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the end of title II add the following:

SEC. 222. PRIORITY FOR INDEPENDENT SALES REPRESENTATIVES.

Section 507(a)(3) of title 11, United States Code, is amended to read as follows:

"(3) Third, allowed unsecured claims, but only to the extent of $2,000 for each individual or corporation, as the case may be, earned within 90 days before the date of the filing of the petition or the date of the cessation of the debtor's business, whichever occurs first, for—

"(A) wages, salaries, or commissions, including vacation, severance, and sick leave pay earned by an individual; or

"(B) sales commissions earned by an individual or by a corporation with only 1 employee, acting as an independent contractor in the sale of goods or services for the debtor in the ordinary course of the debtor's business if, and only if, during the 12 months preceding that date, at least 75 percent of the amount that the individual or corporation earned by acting as an independent contractor in the sale of goods or services was earned from the debtor;".

Mr. COCHRAN. Mr. President, this amendment establishes the priority for expenses and claims of bankruptcy as it relates to independent sales representatives.

Section 507 of title 11 of the Bankruptcy Code provides for the priority order for expenses and claims in bankruptcy. The third priority set out in this section, specifically section 507(a)3, is for unsecured claims up to $2,000 for wages, salaries or commissions, including vacation, severance and sick leave pay earned by individuals within 90 days before the bankruptcy petition was filed or the date of cessation of the debtor's business, whichever comes first.

The purpose of this priority is to ensure that employees, including those who work on commission, are provided a minimum degree of protection when their employer files for bankruptcy.

Under current law, other individuals who derive their income as independent sales representatives by selling products or goods for the debtor firm are not provided any protection for their loss of income when the firm files for bankruptcy.

My amendment would amend this section to include the independent sales representatives and permit them to enjoy the same status as a commissioned sales employee of a debtor firm which goes into bankruptcy. In some instances, corporations exist in the name of one employee truly acting as an independent contractor for the debtor firm in the sale of goods and services, and in those instances the corporation would be included under the terms of my amendment.

The intent and the effect of the amendment is to provide equitable treatment—we consider it equitable—tantamount to that which is provided for employees of a firm, even though they may be called independent sales representatives and they may not technically be considered a direct employee.

To ensure that that is the only class that would be described by the amendment, the amendment provides that the employee or the sales representative would have to earn at least 75 percent of his income during the previous year from the debtor firm.

Only upon meeting that threshold of 75 percent for the previous 12 months would an independent sales representative share in the bankruptcy estate in this priority order and, of course, then only up to the amount of $2,000, as provided for others in this same class, which would have been earned in the 90-day period prior to the bankruptcy filing.

We have submitted this amendment for comment and consideration to the National Bankruptcy Conference, and we have received a favorable report. I am reading from a memorandum now, addressed to Members of the U.S. Senate, and included here is the amendment offered by this Senator, priority for independent sales representatives. The comment of the National Bankruptcy Conference is; "Senator COCHRAN's language is an excellent clarification of existing law."

The independent sales representatives amendment will allow certain independent sales agents or independent contractors to enjoy the same priority in the bankruptcy estate as the employees of the bankrupt debtor.

Until recently, section 507(a)(3), which gives employees of a bankrupt firm priority for a limited amount of wages and benefits they have earned was narrowly interpreted to only be available to employees of the bankrupt debtor and not to independent sales representatives.

This interpretation is unfair in many circumstances and has led to inequitable results where independent contractors who make their living as independent contractors—particularly as sales agents have been unable to recover lost income from the bankruptcy estate.

Typically, the work performed by an independent sales representative is similar to, and in many cases identical to, the work performed by an employee of a firm, but such an individual may be excluded under the Bankruptcy Code for no other reason than the characterization of his or her work status.

While some independent sales representatives may derive their income from a number of firms which limits the effect of a single firm's bankruptcy, those who derive most of their earnings from a single firm are not so fortunate, as they cannot recover even the limited amount that is currently available to firm employees.

The Cochran amendment is intended to address the latter circumstance where an independent sales representative stands to lose a significant amount of income due to the bankruptcy of a single firm.

The amendment requires that the independent sales representative must have derived at least 75 percent of his or her income during the previous 12-month period from the single firm filing a bankruptcy petition.

Even after meeting that significant income threshold, an independent sales representative would not receive any windfall from the provision, and in fact, could receive no more than an employee currently receives—priority for a claim of up to $2,000 that may have been earned during the 90-day period prior to the bankruptcy filing.

Every year, thousands of sales agents lose money owed to them because they do not fit into the priority classification's definition of employee.

The unfairness of this situation is amplified because independent contractors work without the security of many employee benefits such as health insurance, profit sharing plans, life insurance, and other benefits available to employees, but not to independent sales representatives.

The amendment would codify the inclusion of independent contractors in the priority section 507(a)(3) that has historically been limited to employees.

The amendment would also eliminate another inequitable result of the current exclusion of independent contractors under the priority section of the Bankruptcy Code.

Under current interpretations of section 507(a)(3), an individual or mom-and-pop business incorporated to limit potential liability, but run as an unincorporated sole-proprietorship is excluded from coverage.

The judicial interpretation that this section is an exclusive remedy for natural persons, excluding all corporations, has the effect of putting form over substance.

Individuals who are incorporated or incorporated mom-and-pop businesses are being shut out from the priority due to the form in which they run their business not as a result of the way the business is actually run.

The amendment is narrowly drawn to provide an exception for only those corporations which are in fact individuals conducting business and would exclude from the priority all businesses with more than one employee.

The amendment will establish a fair priority in the Bankruptcy Code for those independent sales representatives who, like employees, derive all or most of their income from a single firm in bankruptcy.

This amendment will be especially helpful to the most vulnerable manufacturers agent who is on his own and can least afford to have his manufacturer declare bankruptcy.

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. HEFLIN. Mr. President, I believe that the services that are provided by independent sales representatives of this country are equally as important to the survival of a company as is the work performed by the employees at the factories of those companies. It is in that same vein that I support the idea behind this amendment to give priority to certain claims of the independent sales representative. Senator COCHRAN'S amendment would make the claim of the independent sales representative equal to the claim presently allowed, under the Bankruptcy Code, for an employee.

The Bankruptcy Code specifies the kinds of claims that are entitled to priority in distribution, as well as the order of priority. This system was designed to address special circumstances or special needs which warrant certain exceptions. In particular, wages, salaries, or commissions of employees, which without the priority exception would be unsecured claims, are accorded a third priority in distribution of the estate.

The purpose behind this third place in priority is, in part, to insure that employees will not abandon a failing business for fear of not being paid; thus, they will contribute to the rehabilitation of the company. This same rationale also holds true for the independent sales representatives. He or she plays a major part in the rehabilitation of a company by making sure that company's goods are marketed throughout the country and that the orders for those goods continue.

I support this amendment and the provisions which limit its applicability to independent sales representatives who derive at least 75 percent of their previous year's income from the debtor corporation. By limiting the applicability of the amendment, we assure that those people who can really affect the rehabilitation of the debtor company are rewarded for their perseverance.

The independent sales representatives who will be greatly affected by the bankruptcy of a company are the type of employees which the drafters of the code intended to benefit from the

special priority employees are granted in section 507 of the code.

For these reasons I support this amendment with the provision with the limitation language.

The impasse we have been in with regard to the submission of other amendments is present. But Senator METZENBAUM has agreed that Senator COCHRAN lay down his amendment, and that we not vote on it at this time, or not pass it.

I do not think there are any objections to his amendment. The amendment was submitted. There have been a lot of negotiations going on. Senator COCHRAN has been amenable to working out an amendment that meets the agreement of both Senator GRASSLEY and myself and our staffs, as well as interested parties like the National Bankruptcy Conference, and I think maybe the American Bankruptcy Institute. They have helped in regard to looking at some of these matters.

We appreciate very much Senator COCHRAN's working with us and working out an agreement. I think it is a good amendment. Basically, it applies where a sales representative derives at least—I believe—75 percent of his income from one employer, and therefore he really is almost in the position of being an employee. It does not allow for those sales representatives who maybe have 6 or 7, and maybe get 10 percent here and that sort of thing. That would certainly be an abuse if that were to be allowed. But I think this limits it and limits it properly.

It is a good amendment, and I think we ought to adopt it. But at this time, I ask unanimous consent that further proceedings on this amendment be set aside, subject to it being called back before the floor with the agreement of Senator COCHRAN, Senator GRASSLEY, and myself.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEFLIN. I further ask unanimous consent that no second-degree amendment be in order to the Cochran amendment, No. 1639.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEFLIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the vote ordered for 5:45 be moved to 6 p.m., with all other provisions of the previous agreement remaining in effect.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEFLIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1639

Mr. HEFLIN. Mr. President, in regard to the Cochran amendment which we laid aside and delayed, Senator COCHRAN is now agreeable to passing it. My understanding is Senator GRASSLEY is agreeable, and I am agreeable. Senator METZENBAUM has no objection to it.

So I ask unanimous consent that the Cochran amendment dealing with independent sales representatives now be in order to be considered.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEFLIN. Mr. President, I urge adoption of the Cochran amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Mississippi.

The amendment (No. 1639) was agreed to.

Mr. HEFLIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GRASSLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HEFLIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, I ask unanimous consent for permission to speak as if in morning business for not to exceed 5 minutes, and that my statement not interfere with any of the debate on any pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

ARMS EMBARGO AGAINST THE BOSNIANS

Mr. DOLE. Mr. President, while I welcome the President's proposal for the expanded use of NATO air power to protect U.N.-declared safe havens, I believe that the key missing ingredient in the President's initiative is the lifting of the arms embargo against the Bosnians.

This afternoon I met with Bosnian Vice President Ganic, who pleaded for arms so his people can defend themselves. Had the Bosnian Government had anti-tank and other defensive weapons, the tragic situation in Gorazde may never have occurred. This arms embargo is illegal—it cannot be compared to the embargo against Iraq because it was imposed against a country that no longer exists—Yugoslavia. Bosnia is not Iraq—it is an independent country under attack.

In view of the strong support in the Congress for a unilateral lifting of the arms embargo, I intend to introduce legislation tomorrow which will do precisely that. In January, the Senate overwhelmingly supported—by a vote of 87-9—my amendment to unilaterally lift the arms embargo against the Bosnians. It is time to reaffirm our support and strengthen the President's hand in his dealings with our allies.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. DORGAN. Mr. President, I ask unanimous consent to speak for 5 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

LIFTING THE ARMS EMBARGO

Mr. DORGAN. Mr. President, the Senate minority leader just spoke about an initiative he plans to introduce to lift the arms embargo that now prevents the Bosnians from acquiring the weapons they need to defend themselves. I think that is the right course of action. I have felt that way for some while, and I believe that the minority leader and most of my colleagues believe this is the right course.

However, I've heard a lot of comments on the talk shows and from a number of our colleagues about the terrible suffering and tragedy that is occurring in what used to be Yugoslavia. There always seems to be an undertone of criticism of the Clinton administration. I simply observe this: The Clinton administration, under difficult circumstances, is trying to provide leadership with very, difficult allies, in which there is no uniformity about how to proceed. Those who say we need to do something different or something more, need to clearly articulate what they specifically think. Do they think we ought to introduce U.S. ground troops in that region of the world to deal with this issue? I heard one of my

colleagues questioned three times on a talk show on Saturday, and the reporter clearly asked, "What is it you suggest? What should we do differently or more?"

Clearly, we should do more. I agree with the minority leader. Let us lift the arms embargo. Beyond that, do you believe we should introduce American troops in that region that used to be Yugoslavia? Are the American people prepared to support that? This is the question none of us are preparing to answer, and the step that I do not see many people standing on the floor of the Senate preparing to support at this point in time.

IDENTIFYING THE FEDERAL RESERVE BOARD

Mr. DORGAN. Mr. President, I said yesterday that I was going to bring to the floor of the Senate today a chart with the pictures of all of the folks who cast votes down at the Federal Reserve Board, but whose identity almost no one in America knows. The Federal Reserve Board basically operates in secret. They close their doors—I guess they keep the lights on—and they make judgments about interest rates and monetary policy that affects the life of every single American. They are the last sort of dinosaur left in this country that can do that in secret. We have unappointed, unelected, and unconfirmed president of the regional Fed banks that make decisions about monetary policy, and nobody knows who they are.

I thought I would bring their pictures, show their salaries, and give a little bit about their backgrounds. This would show the American people who are making decisions to increase interest rates to put the brakes on the American economy, despite the absence of any credible evidence of inflation. We have a bunch of folks sitting behind a closed door voting and saying our problem is, "We are headed toward inflation, and we want to protect the big money center banks."

Let us tell the people who they are. I hope it will not alarm them that I intend to show pictures of them so they get proper credit for their monetary policies. I think this is wrongheaded to increase interest rates at a time when the country has just come out of a recession and is not nearly reaching cruising speed. To have the Fed now say, "Let us put the brakes on, let us decide that we have an inflation problem," that is like a doctor prescribing penicillin for an illness he cannot diagnose. He says to the patient: You have nothing wrong with you, but someday you will catch something, so let me start giving you medicine.

Putting the brakes on this economy with three successive interest rate increases in as many months is wrongheaded policy. I cannot do much about it. The Fed is an independent agency, unaccountable to virtually anybody except the constituency it serves. I regret that we now see that policy. I wanted to bring that poster today, but it is hard to get the pictures and get them pasted up. I will do that tomorrow.

GRAIN FROM CANADA

Mr. DORGAN. Mr. President, I want to make one additional comment. The United States Trade Ambassador Kantor and United States Secretary of Agriculture Espy are now prepared to take action against our neighbors in Canada for shipping an avalanche, a veritable flood of subsidized grain into our country.

Some colleagues have sent letters of concern and protest, worrying about what it might do to other sectors of the economy. I fully understand some of those concerns. I do not agree with them. Some say the pasta industry might be hurt by this, that, or the other thing.

The central issue is: Is there unfair trade coming into this country with which our producers cannot compete? The answer is clearly "yes." We have been the victim of a flood of unfair grain coming in from Canada. It has cost our producers, our American family farmers, hundreds of millions of dollars in lost income. We ought to expect our Agriculture Secretary, our Trade Ambassador, and this President to stand up and take action. And for the first time in 5 years, we have an administration that has promised us that they will.

On the 22d of April, this Friday, if negotiations are not successful—and they apparently are not the administration has—promised and pledged to take action. I say that is a major step forward. It has taken a couple of years to get somebody in an office downtown who will admit there is a problem. It has taken us a long time after the admission of the problem to get to a solution. We are finally there.

To my colleagues concerned about other sectors, I say that the price of durum wheat goes up and down and back and forth. You do not see the price of macaroni in the grocery stores rising up or down with the price of durum wheat, because there is very little wheat in macaroni. We face a flood of subsidized wheat and barley and other grain from Canada, and this administration is finally prepared to take action. Again, I understand that some express concern but it is not adequate to suggest that anybody should back off this course of action.

If this country is not willing to stand up and insist on fair trade rules from our allies and neighbors, then our producers cannot place any credibility in the Federal Government.

I wanted to say that we are near a point where we will expect and see action at the end of this week on behalf of our producers. It is not action that is unwarranted or precipitous; it is action that is derived from a series of unfair trade positions that the Canadians have taken in which they have flooded our country with unfairly subsidized grain. I am pleased we are at that point, and I ask my colleagues to consider that this stems from injury suffered by too many American family farmers for far too long.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BANKRUPTCY AMENDMENTS ACT OF 1993

The Senate continued with the consideration of the bill.

Mr. HEFLIN. Mr. President, the time of 6 o'clock has arrived.

I move now to table the Reid-Brown amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alabama to lay on the table the amendment of the Senator from Nevada. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from New Jersey [Mr. BAUCUS], the Senator from New Jersey [Mr. BRADLEY], and the Senator from New York [Mr. MOYNIHAN] are necessarily absent.

I further announce that the Senator from Michigan [Mr. RIEGLE] is absent due to a death in the family.

I also announce that the Senator from Alabama [Mr. SHELBY] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. DANFORTH] is necessarily absent.

The PRESIDING OFFICER (Mr. AKAKA). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 60, nays 34, as follows:

[Rollcall Vote No. 95 Leg.]

YEAS—60

Akaka	Breaux	D'Amato
Bennett	Byrd	Dole
Biden	Cochran	Domenici
Bond	Cohen	Faircloth
Boren	Coverdell	Feingold
Boxer	Craig	Ford

Glenn	Kassebaum	Murray
Gorton	Kempthorne	Nunn
Graham	Kennedy	Packwood
Gramm	Kohl	Pell
Grassley	Lautenberg	Robb
Harkin	Leahy	Rockefeller
Hatch	Levin	Sarbanes
Hatfield	Lott	Sasser
Heflin	Lugar	Simpson
Helms	Mack	Smith
Hutchison	Mathews	Specter
Inouye	McCain	Thurmond
Jeffords	McConnell	Wellstone
Johnston	Metzenbaum	Wofford

NAYS—34

Bingaman	Dorgan	Murkowski
Brown	Durenberger	Nickles
Bryan	Exon	Pressler
Bumpers	Feinstein	Pryor
Burns	Gregg	Reid
Campbell	Hollings	Roth
Chafee	Kerrey	Simon
Coats	Kerry	Stevens
Conrad	Lieberman	Wallop
Daschle	Mikulski	Warner
DeConcini	Mitchell	
Dodd	Moseley-Braun	

NOT VOTING—6

Baucus	Danforth	Riegle
Bradley	Moynihan	Shelby

So the motion to lay on the table the amendment (No. 1637) was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MCCAIN. addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, I offered an amendment earlier today to curtail congressional parking privileges at Washington airports. The amendment occasioned brief but intense debate in opposition to it. At the time, I chose not to respond to the arguments in opposition to my amendment, although I did not find them persuasive. The Senate has now resolved the matter by rejecting my amendment. I accept that, and I do not desire to continue debate on this subject.

However, Mr. President, I would like to address one of the implications in the arguments of the opponents of my amendment. My friend, the Senator from Missouri, argued that my amendment contributed to the public's "corrosive cynicism" for the institutions of our democracy and evidenced a lack of respect for the institution in which I am privileged to serve. I assume that implicit in that indictment is the charge that the author of the amendment lacks respect for the Senate. It is to that charge which I would like to briefly respond.

Mr. President, I am 57 years old. For nearly 40 of those 57 years I have been privileged to work in service to our Republic and to the institutions dedicated to its preservation. I consider myself blessed by Providence to have had this opportunity to serve, and I defer to no one in my reverence for all the institutions of the world's greatest democracy including and especially the U.S. Senate. My disagreement with the Senator from Missouri is not over whether the Senate merits my respect, but over the reasons for which I owe my respect to this institution.

My respect for the Senate is not the same as my affection for this place, the physical presence of this beautiful Capitol, although I do hold such an affection.

It is not given in gratitude for the distinction of being addressed as Senator, although I am grateful for that honor.

It is not a product of my recognition of the serious and difficult work before this body, although I am humbled by our responsibilities.

It is not a function of my reverence for the many distinguished patriots who preceded me here, although my esteem for them is great.

It is not a consequence of my appreciation for the many able, distinguished and honorable men and women with whom I am privileged to serve, although that appreciation is genuine.

My respect is not, in the end, only a respect for the Senate itself and all its attendant privileges and obligations.

My respect, Mr. President, is for the idea of the Senate, for the idea of public service in America which it represents. My respect is for this one noble idea: that in this country neither circumstances of birth nor ranks of privilege nor the acclaim of elites qualify you for public service. It is only the trust of your equals, by which I mean every other American, which entitles you to serve in the U.S. Senate.

Ours is not a Government of uncommon men and women, and I make no claim to being distinguished in my physical or intellectual attributes. Ours is a Government of the people, and the privilege, the only enduring privilege of service in this Government, is that the people have entrusted you with their interests and should you represent those interests faithfully you will have the singular satisfaction of justifying that trust.

When the people perceive any other distinction between themselves and their representatives—whether that distinction is apparent or real—then, like it or not, we will lose that most precious commodity—the hopefully given, but closely guarded trust of the people who sent us here, and our work—our honorable work here—will lose its value.

My amendment was not intended to exacerbate the public's cynicism for Congress, but to try, in an admittedly small way, to help remedy that cynicism, to help repair a little of the frayed bonds that hold us to our constituents.

I did not represent my amendment as a historical constitutional advance for the Nation. I simply saw that one of the perquisites of our office was perceived by our employers as an inappropriate distinction between us and them. And if the removal of that distinction could affect some restoration of our common identification that it would be worth the loss of a small—a very small—convenience. My effort was born of respect, it was not an affront to it.

In the words of one of my colleagues that effort was a fraud. I do not think so. I neither require nor expect to ever be identified as anything greater than an Arizonan and an American. I have found more than enough honor in that distinction to last a lifetime. Any effort to demonstrate how honored we are to be of the people—no matter how small or symbolic—has real value, and is a useful contribution to the preservation of this institution and the noble idea upon which it rests.

AMENDMENT NO. 1632

Mr. DORGAN. Mr. President, the author of this amendment portrays it as an attempt to prevent Members of Congress, Supreme Court Justices, and diplomats from getting free parking at the airport here in Washington, DC.

But what this amendment will really do if it passes is require the Federal Government to pay parking fees to the District of Columbia and the State of Virginia for parking spaces that have been provided without charge to the Federal Government for over 50 years. Members of Congress, Supreme Court Justices, and diplomats who travel on official business on many, many trips will continue to park at the airport and, if this amendment passes, the airport authority will discontinue providing parking spaces without charge for those Federal officials. Instead, the U.S. Congress will be billed for the parking spaces and will have to send payments to the District of Columbia and the State of Virginia for the right to park in their airports.

The Federal Government provides enormous services to both the District of Columbia and Virginia, and to the two airport authorities. And in exchange for that, the airport authorities for 50 years have provided a parking lot for certain Federal officials so that the Federal Government would not have to reimburse for that parking.

The author of this amendment wants the Federal Government to spend more money. I don't think that makes much sense, and for that reason, I'm voting against this amendment.

But I want to be clear. This is not about whether Members of Congress should be parking without charge. It's about whether the Federal Government is going to be required to reimburse the local governments for that which is not provided without cost.

It's taxpayers who benefit, because the Federal Government would reimburse travel expenses including park-

ing fees that Members of Congress paid if the local airport authorities did not now provide those allocated parking spaces to the Federal Government without charge.

With all the resources we now provide the two local airport authorities, we don't need to be sending them another couple of million dollars a year in parking fees from the Federal treasury, inasmuch as for the past 50 years, the tradition has been for those parking spaces to be provided to the Federal Government without cost.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama yields the floor.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized by the Chair.

EXPLANATION OF ABSENCE

Mr. MOYNIHAN. Mr. President, I thank the Chair, and I rise to simply explain my absence, my failure to respond to the rollcall which ended just moments ago. Senators BRADLEY, BAUCUS, DANFORTH, and I were meeting with the President, with leaders of the House, on a matter of great importance to him, in a meeting in the Oval Office, which meeting was delayed, as the President had a press conference on Bosnia of great importance. He came directly from that press conference.

The Senate knew where we were and what we were doing. It was the last vote of the day. There was no pressure to continue, and I would have thought the courtesy of allowing four Senators to get back from the White House—we were here within minutes of the vote having been closed out. I find it difficult to understand and, in the circumstances, Mr. President, unwelcomed. I understand the responsibility of the Chair was to do what was done. But I find, as I say, the decision to do that difficult to understand.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

MR. BRADLEY. Mr. President, I would simply like to add my voice to Senator MOYNIHAN's. I was a member of that group. There were at least two to three phone calls made, and I regret that the vote was missed. But when meeting with the President of the United States, you do not get up in the middle of the meeting and say, "Sorry, I'm leaving."

Mr. BAUCUS. Mr. President, I regret that I was absent during the previous recorded vote on the Reid amendment to the bankruptcy reform bill. However, as the Senators from New York and New Jersey indicated, we were in a meeting with the President of the United States. Senator DANFORTH was also in that meeting. This was a serious and bipartisan meeting on a matter of national significance.

It is simply not possible, or courteous, to abruptly walk out of a meeting with the President. Given the importance of this meeting and the number of Senators in attendance, I regret that we were not given an additional few minutes to return from the White House.

Mr. MOYNIHAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, on the rollcall vote just concluded, four Senators were absent from the vote because they were attending an important meeting at the White House. I regret very much that they missed the vote, but everyone should understand that they were engaged in important business. I also want to explain the circumstances which led to the setting of the vote.

Mr. President, just shortly after 3 p.m. today, a vote was set to occur at 5:30 p.m. on a then pending amendment to the bill.

At about 4 p.m., we received, through the staff of our Republican colleagues, in behalf of one of the Republican Senators involved, a request that we move that vote until 5:45 p.m. so that the four Senators, two Republicans and two Democrats, could complete their attendance at the meeting with the President and return to the Senate in time for the vote. I acceded to that request, and at about 4 p.m. we changed the time of the then scheduled vote until 5:45 p.m.

About an hour later, or at about 5 p.m., a member of my staff received a call from the White House asking if we could again change the time of the vote to 6 p.m., also to accommodate the four Senators involved. I acceded to that request, and we changed the time of the vote until 6 p.m.

So all of those involved have known since approximately 3 o'clock this afternoon that a vote was going to occur, and on two different occasions I changed the time of the vote at the request of the Senators and at the request of the White House. Had I been asked to change it to a still later time, I would have acceded to that request.

Mr. President, let me state with respect to the time limitation on votes that in the Congress which sat during the calendar years 1987 and 1988. It is my recollection that Senator BYRD, then the majority leader, imposed a limitation on the time for the votes. That limitation was followed by the Senate faithfully.

When I became majority leader, I did not impose such a rule. And as a result, for the succeeding 4 years, back in 1989, 1990, 1991, and 1992, I received what must have been in total thousands of requests by Senators to delay votes for a wide variety of reasons. And I usually did so with the result that votes regularly lasted for 30 minutes, 40 minutes, and my recollection is in some cases beyond an hour. That led in turn to a large number of Senators requesting that a time limitation be reimposed on the votes.

In response to that request, I reimposed such a time limit, and I announced it a year and a half ago. We have operated under that rule for a year and a half. It has been described many occasions. I have discussed it publicly on many occasions. So every Senator knows well in advance that once a vote starts, there is a specific time limitation.

Among the many reasons which led to extensions of votes, one of the most common was a meeting at the White House. It is a daily event. Indeed, several times a day, groups of Senators go to the White House to meet with the President. I am one. The Republican leader is another who perhaps goes to the White House more often than other Senators. And it happens, as I said, on a daily basis. We have tried very hard to accommodate the White House and all Senators in that regard, and I believe we have done so today when we changed the time of the vote on two occasions at the request, first, of some of the Senators who are were attending a meeting, and, second, at the request of the White House.

The circumstances were important. But I want to say, having listened to reasons for missed or extended votes, that there are literally thousands of extenuating circumstances, and there are requests which are made which are reasonable, legitimate, and appropriate which, if observed, would result in votes extending for hours and hours.

It is my belief that, despite some inconvenience to Senators and the fact that some votes are missed, the current rule is an appropriate one, one which should be enforced, and that the only way that it can be enforced is to have no exception because once there is an exception, then there is no rule. And neither I nor any other majority leader in the past has been able to discern a standard by which we could say yes to some requests for extensions and no to other requests.

So I deeply regret that the Senators involved missed the vote. I note that their absence did not affect the decision because the result was by a very wide margin, and their presence could not have changed the result.

I also want their constituents to know that they were working very hard on an important subject. To be present for a rollcall vote is not the only thing the Senator does. The work involves committee meetings, committee hearings, meetings with constituents, meetings with foreign officials,

meetings with the President, and meetings with administration officials.

So there should be no criticism of the Senators involved in the circumstances. But I also believe there should be no criticism of the fact that we have a rule, and we must observe the rule. Of course, I will be pleased to consider requests by Senators if they want to change the rule and go back to a procedure under which votes can be extended beyond the specific time limitation.

We have gone back and forth in the Senate. As I have noted at various times, there has been a rule at the various times, and whichever process is followed, there is bound to be some dissatisfaction and some inconvenience.

My principal reason for speaking was to make clear that everyone understands that the Senators involved were absent because they were doing important work and doing their duty at a very important meeting and that we had taken every step to do what we believe was accommodating to those Senators, to the President, and to the White House.

I thank my colleagues for their diligence, and I regret that, at least in this instance, the operation of the rule meant that a vote was missed by the Senators involved.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. HEFLIN. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

BOSNIA—A CLEAR COURSE OF ACTION

Mrs. FEINSTEIN. Mr. President, I rise today to speak about the ongoing slaughter in Bosnia and Herzegovina.

A year ago, I spoke in this Chamber about the outrage of ethnic cleansing, but the killing goes on. There seemed a brief respite after that mortar shell slammed into the open market in Sarajevo, killing scores of innocent shoppers. Now that terrible slaughter has moved to Gorazde in defiance of its designation by the United Nations as a safe zone.

Despite my hope that this conflict will be settled peacefully through negotiations, I am not optimistic following recent actions by the Serbs.

Therefore, I concur with the President that NATO should step up air strikes against Serb artillery and end its targeting of yet another U.N. safe haven crowded with refugees.

Clearly, without denying the very humanity that is the soul of our democratic heritage, we cannot stand back and let the carnage continue.

Through the United Nations, with our NATO allies, the United States must lay out a clear course of action that, in addition to increased air strikes, should carry the possibility of stricter economic sanctions on the unyielding Serbs and lift the arms embargo that cripples the struggle of Bosnian Moslems to defend themselves.

In the past, NATO has yielded considerable moral credibility by its slow reaction in the face of the bloodshed in Bosnia.

And clearly the United States' own national conscience suffers in any prolonged twilight of inaction. Our self-confidence as a Nation is sapped when we watch children die and hospitals shelled and survivors cower by the gravesides fearful of yet another mortar burst. In our minds, we can almost hear the whine of the next incoming round, and we shudder, knowing that when we do take a strong stand, as happened in the wake of the shelling of the Sarajevo market, the Serbs cease their killing and talk of negotiations. When confronted with the possibility of strong air strikes at Sarajevo, the Serbs agreed to a cease-fire and even turned in some of their artillery.

But at Gorazde, first the United States sent mixed signals. Then, limited strikes, confined to a few aircraft and trifling targets, were seen by the Serbs for what they were, a bluff, and they calculatingly called it and intensified their assault on the city.

The darker forces that revel in race hatred and paranoid nationalism see weakness on the part of NATO as an open invitation to ready their weapons for new campaigns of ethnic cleansing.

The terrible tragedy of Bosnia is not only the mangled victims of almost 2 years of uninterrupted bloodshed within its borders, but the prospect that the violence may spread to other provinces of the former Yugoslavia and then beyond—to other nations where racial tensions are high and self-governance is weak.

The Balkans have always been a powderkeg, and so is the crescent of former Soviet republics from the Caspian to the borders of China.

As a nation, we must not embolden strutting demagogs in other lands to believe they are immune from international condemnation and forceful constraint.

The weak alibis of Munich in 1938 about faraway lands about which we know nothing did not spare the world from greater bloodshed, but merely encouraged a madman to further conquest.

Consequently, I believe our Nation and its NATO allies must make clear to the Serbs that air strikes will be intensified unless the siege at Gorazde is lifted. It is time to make Gorazde the symbol of the seriousness with which NATO views the sanctity of U.N. designated safe havens.

Token strikes against small targets have been brushed aside, whereas direct missions against artillery emplacements, command posts, ammunition dumps and principal troop assembly areas could not be ignored.

The bombing of their hillside encampments would be a clear and forceful warning to the Serbs that additional pressures, including the increased economic sanctions against their country and the potential lifting of the arms embargo to the embattled Bosnian Moslems, will be brought against them until they end their murderous rampage and agree to go to the peace table.

These steps will bring profound pressures on the Serbian militants to cease their killing and, if rationality prevails, to seek peace.

These steps, of course, must be carefully coordinated with our allies, which have some 28,000 troops on the ground in Bosnia and Herzegovina and whom we do not wish to place in harm's way.

A precise, step-by-step intensification of pressures—first the ultimatum to end the siege, which if ignored would trigger air strikes against military targets, initially the artillery positions, ammunition depots, and command and control centers—constitutes a measured formula for containing the violence and letting cooler heads prevail in the peace process.

As President Clinton has vowed, we do not want to see American or allied troops dragged into a ground war in the Balkans. But as history has taught us, it is better to take preventive action rather than doing little or nothing until we find ourselves engulfed in a large conflagration.

I stand ready to support our President in his effort to bring peace to the Balkans.

The world, in 1938, turned its back on Hitler, and he took license to plunge the world into war and genocide.

The United States, in 1994, cannot turn its back on genocide. Nor can we and our NATO allies risk the whirlwind that inaction and indecisiveness can bring about.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages

from the President of the United States submitting sundry nominations which were referred to the Committee on Foreign Relations.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 12:10 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3813. An act to amend the Export Enhancement Act of 1988 to promote further United States exports of environmental technologies, goods and services.

The message also announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 1654. An act to make certain technical corrections.

The message further announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 31. Concurrent resolution concerning the emancipation of the Iranian Baha'i community.

The message also announced that pursuant to clause 6 of rule X, the Speaker makes the following modification in the appointment of conferees on the bill (H.R. 2333) to authorize appropriations for the Department of State, the U.S. Information Agency, and related agencies, and for other purposes.

In the second panel from the Committee on Foreign Affairs, Mr. DIAZ-BALART is appointed in lieu of Mr. ROTH only for consideration of section 755 of the Senate amendment.

At 12:26 p.m., a message from the House of Representatives delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 4066. An act to suspend temporarily the duty on the personal effects of participants in, and certain other individuals associated with, the 1994 World Cup Soccer Games, the 1994 World Rowing Championships, the 1995 Special Olympics World Games, the 1996 Summer Olympics, and the 1996 Paralympics.

At 6:50 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2884) to establish a national framework for the development of School-to-Work Opportunities systems in all states, and for other purposes.

ENROLLED BILLS SIGNED

The President pro tempore (Mr. BYRD) announced that on today, April 20, 1994, he had signed the following enrolled bill previously signed by the Speaker:

H.R. 4066. An act to temporarily suspend the duty on the personal effects of participants in, and certain other individuals associated with, the 1994 World Cup Soccer Games, the 1994 World Rowing Championships, the 1995 Special Olympics World Games, the 1996 Summer Olympics, and the 1996 Paralympics.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 3813. An act to amend the Export Enhancement Act of 1988 to promote further United States exports of environmental technologies, goods, and services, to the Committee on Banking, Housing, and Urban Affairs.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on April 19, 1994, he had presented to the President of the United States the following enrolled bills:

S. 2004. An act to extend until July 1, 1998, the exemption from ineligibility based on a high default rate for certain institutions of higher education.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–2498. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, a report relative to the construction of a Federal Building and U.S. Courthouse in Phoenix, Arizona; to the Committee on Environment and Public Works.

EC–2499. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, a report relative to a Social Security Administration Service Center in Chicago, IL; to the Committee on Environment and Public Works.

EC–2500. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report relative to the establishment of a National Scenic Byways Program; to the Committee on Environment and Public Works.

EC–2501. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, a report relative to the restoration of the Great Lakes ecosystem; to the Committee on Environment and Public Works.

EC–2502. A communication from the Acting Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a report relative to the national dam inventory; to the Committee on Environment and Public Works.

EC–2503. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, a report relative to abnormal occurrences at licensed facilities for the third quarter of calendar year 1993; to the Committee on Environment and Public Works.

EC–2504. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report on the assessment of adequacy of reimbursement rates to pharmacies and its impact on the access to medication and pharmacy services by Medicaid recipients; to the Committee on Finance.

EC–2505. A communication from the Fiscal Assistant Secretary of the Treasury, transmitting, pursuant to law, the report of the Treasury Bulletin for March 1994; to the Committee on Finance.

EC–2506. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the report on improving internal regulatory review; to the Committee on Finance.

EC–2507. A communication from the Chairman of the Physician Payment Review Commission, transmitting, pursuant to law, the report of recommendations in response to congressional mandates; to the Committee on Finance.

EC–2508. A communication from the Board of Trustees of the Federal Hospital Insurance Trust Fund, transmitting, pursuant to law, the annual report for calendar year 1994; to the Committee on Finance.

EC–2509. A communication from the Board of Trustees of the Federal Old-Age and Survivors Insurance and Disability Insurance Trust Funds, transmitting, pursuant to law, the annual report for calendar year 1994; to the Committee on Finance.

EC–2510. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report relative to the furnishing of defense articles and services to the Governments of Albania, Bulgaria, Estonia, Latvia, Lithuania, and Romania; to the Committee on Foreign Relations.

EC–2511. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report relative to chemical and biological warfare developments worldwide; to the Committee on Foreign Relations.

EC–2512. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report relative to a Presidential determination regarding a drawdown in commodities and services from the inventory and resources of the Department of Treasury to support sanctions enforcement efforts against Serbia and Montenegro; to the Committee on Foreign Relations.

EC–2513. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report relative to a Presidential Determination with regard to the authorized use of fiscal year 1994 Peacekeeping Operation funds to furnish assistance for sanctions enforcement against Serbia and Montenegro; to the Committee on Foreign Relations.

EC–2514. A communication from the President of the United States, transmitting, pursuant to law, the Arms Control and Disarmament Agency's annual report for fiscal year 1993; to the Committee on Foreign Relations.

EC–2515. A communication from the Senior Deputy Assistant Administrator, Bureau for Legislative and Public Affairs, Agency for International Development, transmitting, pursuant to law, a report relative to the economic conditions in Turkey; to the Committee on Foreign Relations.

EC–2516. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to

law, a report on international agreements, other than treaties, entered into by the United States in the sixty day period prior to March 24, 1994; to the Committee on Foreign Relations.

EC–2517. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report relative to Israel's participation in the International Atomic Energy Agency; to the Committee on Foreign Relations.

EC–2518. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty day period prior to April 7, 1994; to the Committee on Foreign Relations.

EC–2519. A communication from the General Counsel of the Department of the Treasury, transmitting, a draft of proposed legislation to amend the Bretton Woods Agreements Act to authorize consent to and authorize appropriations for the United States contribution to the Global Environment Facility, and for other purposes; to the Committee on Foreign Relations.

EC–2520. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–214; to the Committee on Governmental Affairs.

EC–2521. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–215; to the Committee on Governmental Affairs.

EC–2522. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–216; to the Committee on Governmental Affairs.

EC–2523. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–217; to the Committee on Governmental Affairs.

EC–2524. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–219; to the Committee on Governmental Affairs.

EC–2525. A communication from the President of the United States (received on April 19, 1994), transmitting, pursuant to law, a report on the United Nations Protection Force in the former Yugoslav Republic of Macedonia; to the Committee on Foreign Relations.

EC–2526. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report relative to contributions made by the United States Government to International Organizations for the period April 1, 1993 to September 30, 1993; to the Committee on Foreign Relations.

EC–2527. A communication from the President of the United States, transmitting, consistent with the War Powers Resolution, a report relative to the status of the U.S. contribution to the U.N. embargo of Haiti; to the Committee on Foreign Relations.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–443. A joint resolution adopted by the Legislature of the State of Idaho; to the Committee on Environment and Public Works.

"HOUSE JOINT MEMORIAL NO. 9

"Whereas, on December 28, 1993, the National Marine Fisheries Service (NMFS) in 50 CFR 226 adopted a final rule which designated critical habitat for the Snake River Sockeye Salmon, Snake River Spring/Summer Chinook Salmon and Snake River Fall Chinook Salmon pursuant to the Endangered Species Act; and

"Whereas, this designation impacts the entire Salmon and Clearwater River drainages and the Snake River upstream to Hells Canyon Dam or roughly one-third of the land mass of Idaho; and

"Whereas, the following counties contain or border rivers, steams and hydrologic units designated as critical habitat under the NMFS designation: Adams, Benewah, Blaine, Clearwater, Custer, Idaho, Latah, Lemhi, Lewis, Nez Perce, Shoshone and Valley; and

"Whereas, in its designation, the NMFS states: ". . . Because adverse modification of riparian zones may impede the recovery of threatened and endangered salmon, the adjacent riparian zone is included in the critical habitat for listed Snake River Salmon . . ." and defines "adjacent riparian zones" as those areas within a horizontal distance of three hundred feet from the normal high water of a stream channel or from the shoreline of a standing body of water; and

"Whereas, this designation will probably have deleterious impacts on livestock grazing, agricultural activities, timber harvest, mining and related activities currently conducted in the designated areas; and

"Whereas, in the NMFS designation there is little reference to a restriction of hydroelectric dams on the Snake and Columbia River systems that is causing difficulties with both upstream and downstream passage of anadromous fish, a major reason why salmon have been decreasing in numbers, and the NMFS designation is also largely silent insofar as harvest regulation and control of salmon predators, these being additional major reasons for the decline in salmon numbers; and

"Whereas, under Section 4(b)(2) of the Endangered Species Act, critical habitat is required to be designated on the basis of the best scientific data available and after taking into account the economic impact and other relevant impacts of specifying any particular area as critical habitat and an area may be excluded from a critical habitat designation if the overall benefits of exclusion outweigh the benefits of designation and the exclusion will not result in the extinction of the species; and

"Whereas, the University of Idaho has currently prepared such a study for two of the twelve Idaho counties designated under the NMFS order; and

"Whereas, the NMFS designation has great potential to do severe economic harm to the other Idaho counties, to many Idaho citizens and industries with ramifications to the economic health of the whole State of Idaho, while at the same time being questionably effective toward its main goal and objective: recovery of more salmon; and

"Whereas, the "incremental" approach used by NMFS in analyzing the socio-economic impacts of designating critical habitat, which resulted in a judging of "no significant impact" appear to circumvent the intent of Congress regarding Section 4(b)(2) of the Endangered Species Act.

"*Now, therefore, be it resolved*, By the members of the Second Regular Session of the Fifty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that we respectfully request the President of the United States and the Administrator of the National Marine Fisheries Service to declare a moratorium in enforcing the critical habitat designation contained in 50 CFR Part 226 as it pertains to the twelve Idaho counties so that the State of Idaho and the affected counties can prepare reliable socio-economic impact analyses to determine if justification exists for an exemption pursuant to section 4(B)(2) of the Endangered Species Act.

"*Be it further resolved*, That the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the United States, the Administrator of the National Marine Fisheries Service, the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States."

POM–444. A joint resolution adopted by the Legislature of the State of Maine; to the Committee on Environment and Public Works.

"JOINT RESOLUTION

"Whereas, a modern, well-maintained, efficient and interconnected transportation system that is vital to the economic growth, health, and global competitiveness of our State and the entire nation; and

"Whereas, the highway network is the backbone of a transportation system that provides for intermodal connectivity and the movement of people and goods; and

"Whereas, it is critical to effectively address highway transportation needs through appropriate transportation plans and programs; and

"Whereas, the Federal Intermodal Surface Transportation Efficiency Act of 1991 established the concept of a 155,000-mile National Highway System, which includes the Interstate System; and

"Whereas, on December 9, 1993, the United States Department of transportation transmitted to Congress a proposal for a National Highway System, which identified 104 port facilities, 143 airports, 191 railroad-truck terminals, 321 Amtrak stations and transit terminals; and

"Whereas, the Intermodal Surface Transportation Efficiency Act of 1991 requires that National Highway System maintenance funds may not be released to the states if the National Highway System is not approved by September 30, 1995; and

"Whereas, the uncertainty associated with the future of the National Highway System precludes the possibility of the State to actively undertake and properly develop the necessary planning and programming activities; now, therefore, be it

"*Resolved*, That We, your Memorialists, respectfully urge and request that the Congress of the United States enact legislation to designate and approve the National Highway System no later than September 30, 1994; and be it further

"*Resolved*, That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the Honorable William J. Clinton, President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, and to each member of the Maine Congressional Delegation."

POM–445. A joint resolution adopted by the Legislature of the State of Idaho; to the Committee on Finance.

"HOUSE JOINT MEMORIAL NO. 13

"Whereas, the 1967 United States Supreme Court decision in the case of 'National Bellas Hess, Inc. v. Dept. of Revenue' (386 U.S. 753 (1967)) denies states the authority to require the collection of sales and use taxes by out-of-state mail order firms that have no physical presence in the taxing state, even though they solicit and obtain significant sales there through the mail and common carriers; and

"Whereas, in its 1992 decision in 'Quill Corp. v. North Dakota' (U.S.S.C. Doc. No. 91-194), the United States Supreme Court clearly indicated that the Congress of the United States can, consistent with the U.S. Constitution, enact legislation authorizing direct marketers to collect state and local use taxes; and

"Whereas, the inability of states like Idaho to require certain direct marketers and other businesses not physically present, but selling to their residents, to collect sales and use tax places many community businesses that support state and local governments at a substantial competitive disadvantage; and

"Whereas, restrictions on collecting such taxes result in a loss of billions of dollars nationally and millions of dollars in Idaho of legally due sales and use tax revenue; and

"Whereas, according to a recent report released by the Advisory Commission on Intergovernmental Relations, the revenue potential to all states from untaxed interstate mail order sales is projected to be $3.27 billion in 1992 and that the loss of tax revenue to the State of Idaho in the same report is estimated to be 12.7 million dollars; and

"Whereas, organizations representing local retailers, state and local officials and public service recipient groups are working to achieve enactment of federal legislation that would authorize states to require direct marketers to collect state sales and use taxes; and

"Whereas, in the two decades since the 'National Bellas Hess' decision, improvements in communications technology and transportation distribution systems have changed the nature and extent of interstate sales and the recent and projected rapid growth in interstate sales, through television, mail order, '800' telephone numbers and by other means of electronic communications indicates that, without corrective legislation, collection of sales and use taxes will become increasingly inequitable and unenforceable; and

"Whereas, there has been introduced into the Senate of the United States a bill, S. 1825, 'The Fairness for Main Street Act of 1994,' that would allow state and local jurisdictions to require out-of-state companies to collect sales or use taxes on tangible personal property sold to residents of the state or local jurisdictions if the company's national sales are not less than $3 million and sales into the state are not less than $100,000 and which includes other fair and reasonable safeguards for out-of-state companies.

"*Now, Therefore, Be It Resolved,* By the members of the Second Regular Session of the Fifty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that we respectfully request Congress to enact S. 1825, "The Fairness for Main Street Business Act of 1994," or substantially similar legislation that would prevent this state's revenue loss and remove the competitive advantage now enjoyed by some out-of-state businesses.

"*Be It Further Resolved,* That the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States."

POM-446. A joint resolution adopted by the Legislature of the State of Idaho; to the Committee on Foreign Relations.

"Whereas, President Clinton announced that he is lifting the trade embargo on Vietnam and is establishing a trade liaison office in Hanoi; and

"Whereas, last summer, President Clinton outlined four criteria for judging the seriousness of Vietnam's commitment in accounting for missing Americans: these included repatriation of remains; provisions of archival materials related to missing Americans; resolution of last-known-alive discrepancy cases; and cooperation on resolving Laotian POW/MIA cases; and

"Whereas, Clinton Administration officials gave the Vietnamese Government a list of eighty-four cases that they expected help on before they could recommend lifting the embargo and in each, U.S. officials believe that persuasive evidence exists that the Vietnam Government knows what happened to the men; and

"Whereas, accounting for these Americans would provide a concrete demonstration of Vietnam's willingness to address some of the President's stated concerns and it would serve as a gesture of good faith by the Vietnamese to proceed with the hundreds of cases beyond the eighty-four that they could easily resolve; and

"Whereas, despite Clinton Administration assertions that Vietnam has made measurable progress in each of the specific areas, the Vietnam Government's record of stonewalling and cynical manipulation for more than twenty years cannot be ignored; and

"Whereas, during the Vietnam War, the Vietnamese went to great lengths to keep track of enemy personnel who came under their control, alive or dead, as all units had been instructed on procedures to follow in the event they killed or captured an American, including immediate notification to higher headquarters; and

"Whereas, dead Americans were carefully photographed and cataloged and remains were often buried immediately at aircraft crash sites and locations of the graves recorded and a year or more later, teams recovered the remains, preserved them as they did for their own and reburied or stored them above ground in designated locations; and

"Whereas, throughout this process, detailed records were kept and over the years the Vietnam Government has returned some of these remains and U.S. intelligence estimates that the Vietnamese could readily provide hundreds more; and

"Whereas, today, Vietnamese officials continue to hold back key documents they know are crucial to the accounting process of POWs and MIAs while providing a large volume of inconsequential materials to create the impression of cooperation and progress; and

"Whereas, same officials of the Vietnam Government, using words strikingly similar to those they have used for two decades, are again claiming they hold no more American remains despite the fact that Vietnamese records and photographs provided since 1992 back up previous intelligence and diplomatic admissions that they continue to hold hundreds of remains or can provide persuasive explanations why some remains may not be available; and

"Whereas, the Government of Vietnam has not provided a single set of remains from the list of eighty-four MIAs given to them months ago and until they do, it is not credible to assert that the President's criteria on the repatriation of remains has been met; and

"Whereas, lifting the trade embargo now without achieving real results is a tragic mistake as it will dash the hopes of the families who have been waiting so long for answers, place the Clinton Administration in the position of relying solely on the Vietnam Government's 'goodwill' and risk eroding further the American people's trust in government.

"*Now, Therefore, Be It Resolved,* By the members of the Second Regular Session of the Fifty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that the current administration not take further steps to restore economic or diplomatic relations with the Government of Vietnam until it can be certified that the Vietnam Government is being fully forthcoming in telling us what they know about Prisoners of War and Americans Missing in Action during the War in Vietnam and that it rescind any action lifting the trade embargo on Vietnam and establishing a political liaison office in Hanoi until such facts can be certified.

"*Be It Further Resolved,* That the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to President Bill Clinton, the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States."

POM-447. A joint resolution adopted by the Legislature of the State of Idaho; to the Committee on Labor and Human Resources.

HOUSE JOINT MEMORIAL NO. 10

"Whereas, the railroad industry is acknowledged as the originator of private company pensions in the United States; and

"Whereas, in the 1930's the United States Congress assumed the responsibility for developing a federally administered retirement program to place the various railroad pension plans on a solid financial basis; and

"Whereas, the railroad retirement system today covers over one million individuals who have contributed over the years in good faith and who have legitimate expectations of receiving their benefits; and

"Whereas, the National Performance Review in its report 'From Red Tape to Results: Creating a Government That Works Better and Costs Less' proposes to transfer the functions of the Railroad Retirement Board to the Social Security Administration, to other federal agencies, and to 'private section service providers'; and

"Whereas this proposal would privatize and terminate a program that has worked well and provided retirement security to millions of people for nearly 60 years; and

"Whereas, it now costs less money per benefit dollar to administer Railroad Retirement than it costs to administer Social Security and consequently, the proposal is likely to increase costs to the taxpayer; and

"Whereas, the transfer would violate the Federal Government's stated commitment to 'serving the customer' as current and future Railroad Retirement beneficiaries vehemently oppose the transfer; and

"Whereas, this action threatens to disrupt earned and needed benefits for 1.3 million ac-

tive, retired, and disabled rail workers and their families; and

"Whereas, this proposal would adversely affect all active and retired railroad employees and their families in the great state of Idaho.

Now, Therefore, Be It Resolved, By the members of the Second Regular Session of the Fifty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that a continued Federal Commitment to the railroad retirement system is essential to assure the integrity of the railroad retirees' benefits and the preservation of the present structure of the railroad retirement system, including the administrative framework of the Railroad Retirement Board, is necessary to fulfill the time-honored responsibility of the Federal Government.

Be It Further Resolved, That the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States."

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committee were submitted:

By Mr. NUNN, from the Committee on Armed Services:

CHIEF OF NAVAL OPERATIONS

To be admiral

Adm. Jeremy M. Boorda, U.S. Navy, 332-32-6007.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of September 14, October 4, and October 19, 1993, at the end of the Senate proceedings.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. AKAKA (for himself and Mr. INOUYE):

S. 2032. A bill to amend the Energy Policy and Conservation Act with respect to purchases from the Strategic Petroleum Reserve by entities in the insular areas of the United States, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BAUCUS (for himself and Mr. BURNS):

S. 2033. A bill to provide for the exchange of certain lands within the State of Montana; to the Committee on Energy and Natural Resources.

By Ms. MOSELEY-BRAUN:

S. 2034. A bill to improve the quality of public elementary and secondary school libraries, media centers, and facilities in order to help meet the National Education Goals; to the Committee on Labor and Human Resources.

By Mr. BUMPERS:

S. 2035. A bill to withdraw certain lands located in the Mark Twain National Forest from the mining and mineral leasing laws of the United States, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MCCAIN (for himself and Mr. INOUYE):

S. 2036. A bill to specify the terms of contracts entered into by the United States and Indian tribal organizations under the Indian Self-Determination and Education Assistance Act, and for other purposes; to the Committee on Indian Affairs.

By Mr. JOHNSTON (for himself and Mr. BREAUX):

S.J. Res. 182. A joint resolution to designate the year 1995 as "Jazz Centennial Year"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. AKAKA (for himself and Mr. INOUYE):

S. 2032. A bill to amend the Energy Policy and Conservation Act with respect to purchases from the Strategic Petroleum Reserve by entities in the insular areas of the United States, and for other purposes; to the Committee on Energy and Natural Resources.

EMERGENCY PETROLEUM SUPPLY ACT

Mr. AKAKA. Mr. President, today I am introducing the Emergency Petroleum Supply Act, a bill to ensure that insular areas of the United States have guaranteed access to the strategic petroleum reserve during an oil supply disruption. Senator INOUYE has joined me in cosponsoring this legislation.

Hawaii relies on oil for 90 percent of its energy needs, all of which arrives by ocean tanker. We are the most oil-dependent State in the Nation. That is why access to oil reserves during an energy emergency is so important to the people of Hawaii. An oil supply disruption could stifle our economy and cripple our largest employer the visitor industry.

The legislation I am introducing today will safeguard Hawaii from the harsh economic consequences of an oil emergency. The Emergency Petroleum Supply Act is good energy policy and good economic policy for the State of Hawaii.

The cold war may be over, but the world continues to be a dangerous place because of regional tension and conflict. The Middle East, which controls 65 percent of the world's oil supply, has seen its share of turmoil and will face instability in the years to come. Last week's tragic friendly fire incident, in which 26 American soldiers, U.N. peacekeepers, and Kurdish civilians were killed, serves as a grim reminder that Iraq, the country with the world's second largest proven oil reserves, is still a war zone.

Three years ago, Iraq was the site of the largest United States military engagement since the Vietnam war. While we are all pleased the attempted occupation of Kuwait was unsuccessful, Iraq's aggression is a stark reminder of just how vulnerable we are to a cutoff of oil supplies.

The thought of what Iraq could have achieved had its occupation of Kuwait been successful remains a frightening prospect. The combined oil reserves of Iraq and Kuwait total 260 billion barrels. Had these oil fields come under unified control, they would constitute one-fifth of the world's oil reserves. It is a sobering thought to imagine so vast an energy resource under the control of a despot like Saddam Hussein.

The gulf war was not the first time in recent memory that we faced a major oil supply disruption, however. The invasion of Kuwait triggered the third disruption of world oil supplies in the past 20 years.

Fortunately, we have a resource in place to insulate U.S. consumers from energy price shocks. When an oil crisis hits, we turn to the strategic petroleum reserve. This emergency reserve, located in Louisiana and Texas, currently holds 580 million barrels of crude.

During the gulf crisis, our emergency reserves were called into action for the first time. On January 16, 1991, the day Operation Desert Storm was launched, the President authorized the first emergency drawdown of the petroleum reserve. Fortunately, the war with Iraq was short-lived and the SPR drawdown was limited.

Had we been hit by a more severe oil supply disruption, these emergency reserves would certainly have protected the continental United States from serious economic harm. Hawaii and the territories would not have been so fortunate, however. Hawaii's only means of access to the strategic petroleum reserve is by tanker delivery from the Gulf of Mexico through the Panama Canal. Unlike the mainland, which has access to oil transported by pipeline, rail, and highway, all of Hawaii's crude oil and refined products arrive by ocean tanker. A total reliance on ocean deliveries makes Hawaii exceptionally vulnerable to a cutoff of oil supplies.

As any grade school geography student can tell you, Hawaii is a long way from the Gulf of Mexico, especially when you have to transit the Panama Canal. The distance between the strategic petroleum reserve loading docks and Honolulu, by way of the canal, is 7,000 miles—more than one-quarter of the distance around the globe. The problems of the other Pacific territories are even more acute. American Samoa is 8,000 miles by ship from the SPR facilities, and Guam is over 10,000 miles distant from these reserves. Puerto Rico and the Virgin Islands face a similar predicament.

But distance alone is not the issue. When you add together the time between the decision to drawdown the reserves and the time for oil from the reserves to actually reach our shores, the seriousness of the problem emerges. it takes time to solicit and accept bids for SPR oil, time to locate and position

tankers, time for tankers to wait in line to gain access to SPR loading docks, and more time to transit the canal to Hawaii. Obviously, Hawaii is at the end of a very, very long supply line. People overlook the fact that insular areas have a limited supply of petroleum products on hand at any one time. While Hawaii waits for emergency supplies to arrive, oil inventories could run dry and our economy would grind to a halt.

An oil supply disruption is Hawaii's greatest nightmare. Studies commissioned by the State of Hawaii have determined that the delivery time for strategic petroleum reserve oil to Hawaii from the Gulf of Mexico would be as much as 53 days. This exceeds the State's average commercial working inventory by 23 days.

As I have said before, when the Middle East sneezes, the mainland may catch a cold, but Hawaii comes down with double pneumonia. We have good reason to be concerned about the ability of the strategic petroleum reserve to serve Hawaii in a crisis. That is why I am introducing this legislation today.

A study recently completed for the Department of Energy by the East-West Center provides strong justification for granting Hawaii and the territories special access to SPR oil during an energy emergency. The East-West Center study concluded that a major oil supply disruption would have a much more severe impact on the Pacific islands than the rest of the United States. Although all of Asia would experience inflation and recession, the small economies of the insular areas would be virtually unprotected from volatile economic forces. While the rest of the United States does not have to rely on ocean transport from other nations for goods and services that are an essential part of daily living, the economies of Hawaii and the Pacific islands are heavily dependent on ocean-borne trade and international tourism.

The East-West Center study thoroughly analyzed the effect of a major oil supply disruption on the economies of these islands. It found that although an oil price shock would be traumatic, the aftereffects would be even more severe. An oil shortage would lead to recession, which would trigger a decline in tourism and produce a continuing downward spiral for the island economies. Finally, the date indicate that such a downward spiral would last longer in island economies than in the much larger, broadly integrated mainland economy.

According to the East-West Center, a secondary impact of a severe oil supply disruption would be significant price hikes, with a doubling or even tripling of prices as a likely outcome, and a corresponding increase in inflation. Tourism could fall by as much as 50 percent, causing a 5-percent job loss in the U.S. Pacific islands, or roughly 28,000 jobs in Hawaii. A recession would likely follow, producing a much more severe downturn that could easily double the effects of the crisis. In other words, a severe oil supply disruption would create adverse downstream effects that would not be felt for several months, yet would continue for several years. The study paints a bleak portrait of the economic consequences of an oil emergency in Hawaii.

The East-West Center study also provided an analysis of my proposed legislation. After examining the overall oil supply and demand situation within the Pacific basin, the inability of refineries to accept crude from nontraditional suppliers, and the full range of consequences that would result from a major oil supply disruption, the report concluded that the bill I am introducing today is "an excellent proposal which would greatly reassure the islands that their basic needs would be maintained."

The objective of my bill can be summed up in one word: access. Hawaii and the territories, because of their tremendous distance from the Gulf Coast, need guaranteed access to the strategic petroleum reserve as well as priority access to the SPR loading docks.

My bill addresses both these concerns. First, it provides a mechanism to guarantee an award of SPR oil. Companies serving insular areas would be able to submit binding offers for a fixed quantity of oil at a price equal to the average of all successful bids. This concept is modeled after the way the Federal Government sells Treasury bills. It would ensure that Hawaii and the territories have ready access to emergency supplies of oil at a price that is fair to the Government. Without this change, Hawaii's energy companies, and the population they serve, face the risk that their bid for SPR oil would be rejected and that oil inventories would run dry.

The second component of my bill addresses the problems of delay. It grants ships delivering petroleum to Hawaii and the territories expedited access to strategic petroleum reserve loading docks. It would be a terrible misfortune if deliveries to Hawaii or some other oil-starved territory were further delayed because the ship scheduled to carry emergency supplies was moored in the Gulf of Mexico, waiting in line for access to the SPR loading docks.

As the East-West Center study demonstrates, energy security is an important economic issue for the Pacific islands. Hawaii may be the 50th State, but we deserve the same degree of energy security that the rest of the Nation enjoys. It's simply a matter of equity. Hawaii's tax dollars help fill and maintain the strategic petroleum reserve, but Hawaii doesn't benefit from the energy security the reserve provides. That's not fair. And it's not right.

I ask unanimous consent that the text of the bill and relevant portions of the East-West Center study be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2032

Be it enacted by the Senate and House of Representatives of the United States of American in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Emergency Petroleum Supply Act".

SEC. 2. PURCHASES FROM THE STRATEGIC PETROLEUM RESERVE BY ENTITIES IN THE INSULAR AREAS OF THE UNITED STATES.

(a) GENERAL PROVISIONS.—Section 161 of the Energy Policy and Conservation Act (42 U.S.C. 6241) is amended by adding at the end the following new subsection:

"(j)(1) With respect to each offering of a quantity of petroleum product during a drawdown of the Strategic Petroleum Reserve:

"(A) A purchaser located in an eligible insular area of the United States, in addition to having the opportunity to submit a competitive bid, may submit (at the time bids are due) a binding offer, and shall on submission of the bid be entitled to purchase a category of a petroleum product specified in a notice of sale at a price equal to the average of the successful bids made for the remaining quantity of petroleum product within the category that is the subject of the offering.

"(B) A vessel that arrives at a delivery line of the Strategic Petroleum Reserve to take on a petroleum product for delivery to a purchaser located in an eligible insular area of the United States shall be loaded ahead of other vessels waiting for delivery if the Governor or other chief executive officer of the eligible insular area of the United States certifies that delivery must be expedited to avert a critical supply shortage in the eligible insular area of the United States.

"(2)(A) In administering this subsection, and with regard to each offering, the Secretary may impose the limitation described in subparagraph (B) or (C) that results in the purchase of the lesser quantity of petroleum product.

"(B) The Secretary may limit the quantity that any one purchaser may purchase through a binding offer at any one offering of 1/12 of the total quantity of petroleum products that the purchaser imported during the previous year.

"(C)(i) Subject to clause (ii), the Secretary may limit the quantity that may be purchased through binding offers at any one offering to 3 percent of the offering.

"(ii) If the Secretary imposes the limitation stated in clause (i), the Secretary shall prorate the quantity among the purchasers who submitted binding offers.

"(3) In administering this subsection, and with regard to each offering, the Secretary shall, at the request of a purchaser—

"(A) if the quantity is less than 50 percent of 1 full tanker load less than a whole-number increment of a full tanker load of a petroleum product, adjust upward, to the next whole-number increment of a full tanker load, the quantity to be sold to the purchaser; or

"(B) if the quantity is 50 percent of 1 full tanker load more than a whole-number increment of a full tanker load of a petroleum product, adjust downward, to the next whole-number increment of a full tanker load, the quantity to be sold to the purchaser.

"(4)(A) Except as provided in subparagraph (B), petroleum products purchased through binding offers pursuant to this subsection shall be delivered to the eligible insular area of the United States.

"(B) Purchasers may enter into exchange or processing agreements that require delivery to other locations.

"(5) As used in this subsection:

"(A) The term 'eligible insular area of the United States' means the State of Hawaii, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"(B) The term 'offering' means a solicitation for bids to be submitted not later than any specified day for a quantity or quantities of crude oil or petroleum product from a delivery line of the Strategic Petroleum Reserve.".

(b) EFFECTIVE DATES.—The amendments made by subsection (a) shall remain in effect until such time as the Secretary promulgates and implements regulations pursuant to section 3.

SEC. 3. REGULATIONS.

(a) DEFINITIONS.—For the purposes of this section—

(1) the term "insular area" means the State of Hawaii, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands; and

(2) the term "eligible purchaser" means—

(A) an insular area government; or

(B) a person who owns a refinery that—

(i) is located in an insular area; or

(ii) has supplied refined petroleum product to an insular area within the year immediately preceding the sale, or within another period the Secretary determines to be representative of recent imports to the insular area.

(b) IN GENERAL.—The Secretary shall issue regulations that provide benefits for insular areas during the sale of petroleum product withdrawn from the Strategic Petroleum Reserve.

(c) CONTENT.—The regulations issued under subsection (a)—

(1) shall permit an eligible purchaser to purchase petroleum product—

(A) at a price equal to the average price of comparable quality petroleum product sold at the contemporaneous competitive sale of petroleum product withdrawn from the Strategic Petroleum Reserve; or

(B) if no comparable quality petroleum product sold at the contemporaneous competitive sale, at a price estimated by the Secretary to be equivalent to the price described in subparagraph (A);

(2) shall provide for priority cargo lifting of petroleum product purchased by an eligible purchaser at a competitive sale or under paragraph (1);

(3) may limit the amount of petroleum product that may be purchased under paragraph (1) during a sales period—

(A) by an eligible purchaser, to no less than 1/12 of the total amount of petroleum product that the purchaser brought into an insular area during the year immediately preceding the sale or during another period the Secretary determines to be representative of recent imports to the insular area; or

(B) by all eligible purchasers, to no less than 3 percent of the amount of petroleum product offered for sale during the sales period prorated among the eligible purchasers;

(4) may provide that, at the request of a purchaser, the quantity of petroleum product to be sold to the purchaser may be adjusted upward or downward, to the next whole-number increment of a full tanker load, if the quantity that otherwise would be sold is less than a whole-number increment;

(5) may establish procedures for qualifying an entity as an eligible person before a sale of petroleum product withdrawn from the Strategic Petroleum Reserve;

(6) may require an eligible purchaser to comply with financial and performance responsibility requirements applied to offerors in competitive sale;

(7) except as otherwise provided by this subsection, may require an eligible purchaser who purchases petroleum product under paragraph (1) to comply with standard contract provisions applied to purchasers at competitive sales;

(8) may ensure, to the extent practicable, that an eligible purchaser who receives benefits under paragraph (1) or (2) passes on the benefits to an insular area;

(9) may require an eligible purchaser who receives benefits under paragraph (1) or (2) to furnish the Secretary with documents and other appropriate information to determine compliance with this subsection; and

(10) may establish procedures for imposing sanctions on an eligible purchaser who receives benefits under paragraph (1) or (2) and who does not comply with the requirements of this subsection.

(d) PLAN AMENDMENTS.—No amendment of the Strategic Petroleum Reserve Plan or the Distribution Plan contained in the Strategic Petroleum Reserve Plan is required for any action taken under this subsection if the Secretary determines that an amendment to the plan is necessary to carry out this section.

(e) ADMINISTRATIVE PROCEDURE.—Regulations issued to carry out this subsection shall not be subject to the requirements of section 523 of the Energy Policy and Conservation Act (42 U.S.C. 6393) or of section 501 of the Department of Energy Organization Act (42 U.S.C. 7191).

ENERGY VULNERABILITY ASSESSMENT FOR THE U.S. PACIFIC ISLANDS

OIL SUPPLY DISRUPTION SCENARIOS FOR THE PACIFIC ISLANDS

The following sections describe the potential oil supply disruptions scenarios provided by the USDOE for this report, the likely impacts of these supply disruptions on the island economies, and selected response issues. The discussions parallel those in chapters 4 to 7, which also discuss vulnerability response options for the individual island entities. The response issues which are discussed below reflect the larger economies of scale which can be gained by linking Guam, the CNMI, Palau, and American Samoa. Hawaii and the Federated States of Micronesia and the Repubic of the Marshall Islands should be included in any regional groupings because they are also part of the same oil supply system. Unfortunately, the terms of reference for this report did not allow for assessment of these island entities.

Three oil supply disruption scenarios for the Pacific islands are discussed below and evaluated with respect to their potential impacts. Figures 2.16, 2.17, and 2.18 provide the basis for the assessment. The three scenarios are all estimated to last six months and include:

Scenario I: Major disruption caused by major political turmoil affecting Middle Eastern and Asian producers with a net loss of 4.5 MMBD (9.0 MMBD production loss minus 4.5 MMBD drawdown of global strategic petroleum reserve).

Scenario II: Medium-scale disruption caused by simultaneous upheaval in West African and Latin American producers with a net loss 4.5 MMBD (production loss of 6.0 MMBD minus SPR drawdown of 1.5 MMBD).

Scenario III: Minor disruption based on limited upheaval in the Middle East with a loss of 2.0 MMBD (production loss of 4.3 MMBD minus production increase by other countries of 2.3 MMBD).

Before discussing the specific scenarios, several historical reference points should be noted. First, the Asian market is a net importer of oil sourced largely from the Middle East. Second, during previous oil crises, Asian producers such as Indonesia and Malaysia have not diverted supplies. Instead, Asian producers have generally given preference to traditional markets, including Singapore, for their products. Third, most Asian refineries such as those in Singapore are configured to process Middle Eastern crudes and are not as well adapted to refining the lighter, sweeter West African crudes and the heavier, more sour Latin American crudes. In other words, Asia's refining capacity is geared towards supplies from the Middle East, and substitutes are not readily available or easily incorporated. The scenarios are discussed below beginning in reverse order.

Scenario III: Minor disruption

Under Scenario III, there would be no redirection of Asian oil supplies. Impact on U.S. West Coast supplies would be negligible. However, there would be a drop of 10 percent in supplies for Singapore (approximately 100 to 150 MBD), and a similar reduction in Australian and New Zealand crude imports. The result is an anticipated shortfall of approximately 10 percent for the Pacific islands region.

The effects of this 10 percent shortfall are considered minimal. Oil price rises would be very modest and there should be no appreciable negative secondary effects for the islands region such as a major decline in tourism.

No official response measures would need to be instituted. However, it is recommended that monitoring of supplies and prices should be carried out. It is also recommended that utilities, the oil industry, and governments promote energy conservation programs, including voluntary measures by the population to reduce consumption of electricity and gasoline.

Scenario II: Medium disruption

Although the volume of oil lost to the market is considerable (4.5 MMBD), because the West African and Latin American producers are linked to other markets, the Asia-Pacific region would be only slightly affected. There would be some redirection of Middle Eastern supplies, but it is anticipated that the net effect would lead to only a 10 percent decrease in supplies for Singapore, Australia and New Zealand. Similarly, the effect on the U.S. West Coast would be minimal.

The results and response measures for Scenario II are identical to those described above for Scenario III.

Scenario I: Major disruption

A global net loss of 4.5 MMBD based on major political upheaval in the Middle East and Asia and includes a total loss of 2.5 MMBD from Asia oil producers would affect various Pacific Rim markets very differently. The direct impact on U.S. West Coast supplies would be fairly limited (e.g., 5 percent or less) because imports have only a small role in that market. The direct and indirect effects on supplies to Australia and

New Zealand should be relatively modest, approximating a 10 percent decline. The Singapore refiners, however, would be severely affected.

In this scenario, Singapore would experience a 30 percent loss in Asian supplies. The cutback in Middle Eastern production would result in an additional 20 percent decrease. The combined loss of 50 percent would greatly affect the islands region both directly and indirectly.

Directly, the islands region would lose atleast 50 percent of its supplies from Singapore. Australia would be able to provide some additional supplies, but it would also have to compensate for its own loss of supplies. The net loss to the islands region could well be in the range of 25 to 50 percent.

A secondary impact would be significant price hikes. Under Scenario I, spot prices on the Singapore market would soar. Price doubling and even tripling would be likely outcomes. In the 1979/80 period, the crisis centered on Iran led to an additional 20 percent increase in prices. The short-term consequences of the 1979 oil price rise lead to inflation rates of 7.5 percent in Japan, 11 percent in Australia, 15 percent in Fiji and nearly 30 percent in Tonga and Vanuatu. In other words, inflation rates in some of the islands nearly doubled. If the 1979 experience is applied, it would be reasonable to anticipate a near doubling of inflation rates for Guam, the CNMI and Palau.

Compounding the direct supply and price effects of Scenario I, the political complications of the oil supply disruption have to be considered. Following the onset of the recent Persian Gulf War, the Iraqi President threatened to attack U.S. territory and economic interests throughout the world, and there had been several reports of terrorist activity by Iraqis in Asia which heightened concern. As a result, Guam, the CNMI, and Hawaii experienced a downturn in tourism immediately following the outbreak of the 1991 Gulf War because tourists were frightened to fly to U.S. territory. Whether fact or only perception, people reduce their international travel even to relatively "safe" destinations during crisis periods: if there is political upheaval in a major Middle Eastern or Asian nation, international business and tourist travel will be restricted in order to reduce the vulnerability to terrorist attacks.

Interestingly, the number of tourists to Guam and the CNMI began to revive soon after the Gulf War and by early 1992 tourist arrivals were at record levels. However, in September 1992, Typhoon Omar struck Guam and the CNMI and was followed by several other typhoons. The result was a drop of nearly 45 percent in the level of Guam's tourist arrivals, a loss of 1,500 jobs, and a substantial decline in tax revenues, all of which have been greatly compounded by the continuing slump in the Japanese economy.

These effects would probably be similar to the effects of an oil supply disruption under Scenario I. Although difficult to predict with any level of certainty, tourist arrivals could fall sharply (by as much as 50 percent) if a political upheaval in Asia elevated fears of international terrorist activity and/or resulted in higher travel costs. The near-term effects would be a loss of jobs by roughly 5 percent and a fall in tax revenues by a similar level. However, if a recession were to follow, and this would be a likely outcome, then the downturn would be much more severe and could easily double the effects of the crisis.

With Scenario I, it is very likely that in addition to oil supply shortfalls, oil price increases, inflation, and reduced levels of international tourism resulting from the political upheaval causing the oil supply disruption, a recessionary period in the major economies would ensue. The effects of a major recession would again greatly affect the island economies through reduced levels of tourism and reduced demand for their exports, mainly fresh and canned seafoods. As an example, the 1973/74 oil price rise led to global recession, including a severe downturn in Australia which greatly reduced the levels of Australian tourists to Fiji. In other words, a severe oil supply disruption creates downstream effects which are not felt for several months yet may continue for several years.

Two key questions emerge under Scenario I. The first is whether the islands would experience more severe impacts than the rest of the United States. Although all of Asia would experience inflation and recession, the islands' small open economies would be virtually unprotected from the global market: nearly all food and all medicine are imported. The economies are nearly totally dependent on off-island trade and international tourism; with the exception of Hawaii, the rest of the United States does not have to rely on ocean transport and other nations for essential goods and services. In sum, there would be no territory of the United States more severely affected by a major Asian oil supply disruption than the Pacific islands.

The second question is how to respond with short-term measures to meet basic demands for petroleum. Oil price and supply monitoring and voluntary conservation programs would be insufficient responses to a disruption of this magnitude. With respect to the oil supply, the U.S. West Coast could divert some of its supplies to the islands. The Australian arrangement for the South Pacific islands may provide a useful guide. In the event of an oil supply disruption which results in a net market loss of crude oil or petroleum products of 7 percent of the total International Energy Agency (IEA) market, the IEA member may elect to activate the Emergency Oil Sharing System, the objective of which is to ensure fair sharing of available supplies among the IEA group of countries (the OECD minus France). As a member of the IEA, Australia is committed to take certain demand restraint measures should the IEA Emergency Oil Sharing Scheme go into effect. The demand restraint is measured as a percentage decrease in total consumption, including traditional exports. This means that if a 10 percent demand restraint measure is instituted, then Australia has to cut its combined own consumption and traditional exports by 10 percent.

The Australian arrangement covers the independent island nations sourced from Australia. It does not cover American Samoa or any of the North Pacific nations and territories sourced via Guam, including the Federated States of Micronesia and the Republic of the Marshall Islands. These nations and territories either have to secure emergency supplies via Singapore or from a nontraditional supplier, the United States.

The United States via its military infrastructure has considerable levels of stocks in the Asia-Pacific region as well as the shipping capacity to deliver supplies. However, as Figure 3.2 shows, the military is cutting back on its commercially leased storage capacity and is also shutting down some of its own storage facilities in certain locations.

Another potential source of crude petroleum is Papua New Guinea whose oil production is now at 135,000 b/d. Currently refined throughout the Asia Pacific region, this crude resource could provide a substantial margin of safety for the Pacific islands. A 30,000 b/d refinery has been approved by the government and could be operating in 1996.

Through the supply capacities of the oil companies operating in the region, other regional suppliers, and the U.S. government (Strategic Petroleum Reserve and the military), the Pacific islands should be able to receive emergency supplies. It is possible that some type of formal assurance to the island governments is required. Currently being considered for legislation in the U.S. Congress is a proposal which would guarantee the U.S. Pacific islands including Hawaii a percentage drawdown of the national SPR if emergency measures were placed in effect. This guarantee would ensure access to oil supplies for the islands. Market prices would have to be paid, but basic services could be maintained. Not guaranteed is transport for the oil supplies. However, preliminary indications are that tankers could be acquired, albeit at market rates which would be high during crisis periods. This is an excellent proposal which would greatly reassure the islands that their basic needs would be maintained.

By Mr. BAUCUS (for himself and Mr. BURNS):

S. 2033. A bill to provide for the exchange of certain lands within the State of Montana; to the Committee on Energy and Natural Resources.

LOST CREEK LAND EXCHANGE ACT OF 1994

• Mr. BAUCUS. Mr. President, I am introducing the Lost Creek Land Exchange Act of 1994. This legislation exchanges 10,800 acres in the Deerlodge and Gallatin National Forests and the opportunity to harvest approximately 3.5 million boardfeet of timber in the Deerlodge National Forest for 18,300 acres of land that is currently owned by Brand S. Lumber Co., of Livingston, MT.

This legislation is of real benefit to Montanans and the millions of Americans who visit our national forest system each year. Specifically, this legislation accomplishes three very important objects.

First, it brings into public ownership the 14,500 acre Lost Creek Reserve. Located north of Anaconda in the Deerlodge National Forest, the Lost Creek Reserve is an outstanding place. The Lost Creek Reserve is home to Rocky Mountain Bighorn sheep, mountain goats, elk, moose, and deer, and it is literally right out the backdoor for the community of Anaconda. Acquiring this property means convenient public access to some of the best wildlife habitat and hunting in the Rocky Mountains.

Second, this legislation completes consolidation of lands in the Gallatin Range Wilderness study area, Gallatin National Forest. The Gallatin National Forest surrounds Yellowstone National Park, and serves as critical habitat for Yellowstone's elk, deer, moose, and grizzly bear. Our best trout streams like the Yellowstone and Gallatin Rivers are fed by streams that originate

high in the Gallatin Range. The outstanding scenery and wildlife opportunities in the Gallatin are not lost on the public—the Gallatin has the highest visitor use of any forest in Montana.

Congress has already taken two very important steps to consolidate public ownership in the Gallatin Range. In 1989–90, Congress appropriated a total of $7 million to purchase lands in the Gallatin National Forest that are critical winter range for Yellowstone's elk herds. This last Congress, President Clinton signed into law the Gallatin Range Consolidation and Protection Act. Under this act, the Forest Service will acquire over 70,000 acres of land in the Gallatin Range.

The Lost Creek Land Exchange Act completes what has been a concerted effort by many groups over many decades. The Forest Service will acquire 4,485 acres of land in the Gallatin Range, of which, 3,205 is within the boundaries of the Gallatin Wilderness study area.

Third, this legislation creates jobs by making timber available for Brand S Lumber Co. to harvest in an environmentally responsible manner. Brand S has gained a good deal of respect in Montana for their dedication to responsible timber management. In this legislation, the land and timber rights that Brand S will receive are specifically governed by Best Management Practices developed by the Forest Service. Additionally, Brand S has agreed to work with the Nature Conservancy and place conservation easements on the lands that they acquire in the Gallatin National Forest to protect against future commercial development.

This legislation is the product of considerable work by Brand S Lumber Co., local sportsmen, conservationists, the Montana Department of Fish, Wildlife and Parks, and the U.S. Forest Service. In the end, these groups pulled together and came up with a land exchange that makes everyone a winner. Time is short, however, and the Congress must act as quickly as possible to ensure that these important lands are brought into public ownership. I urge my colleagues to recognize the positive nature of this legislation and work with me to pass it into law in short order.

Mr. President, I ask unanimous consent that land exchange specifications and the full text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2033

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Lost Creek Land Exchange Act of 1994."

SEC. 2. LAND EXCHANGE.

(a) GENERAL.—Notwithstanding any other provisions of law, the Secretary of Agriculture (referred to in this Act as the "Secretary") is authorized and directed to acquire by exchange certain lands and interests in lands owned by the Brand S Corporation, its successors and assigns, (referred to in this Act as the "Corporation"), located in the Lost Creek area of in Deerlodge National Forest and within the Gallatin National Forest.

(b) OFFER AND ACCEPTANCE OF LAND.—

(1) NON-FEDERAL LAND.—If the Corporation offers fee title that is acceptable to the United States to approximately 18,300 acres of land owned by the Corporation and available for exchange, as depicted on the map entitled "Brand S/Forest Service Land Exchange Proposal," dated March 1994, and described in the "Land Exchange Specifications" document pursuant to paragraph (b)(3), the Secretary shall accept a warranty deed to the land.

(2) FEDERAL LAND—Upon acceptance by the Secretary of title to the Corporation's lands pursuant to paragraph (b)(1), and subject to reservations and valid existing rights, the Secretary of the Interior shall convey, by patent, the fee title to approximately 10,800 acres on the Deerlodge and Gallatin National Forests, and by timber deed, the right to harvest approximately 3.5 million board feet of timber on certain Deerlodge National Forest lands, as depicted on the map referenced in paragraph (b)(1) and further defined by the document referenced in paragraph (b)(3).

(3) AGREEMENT.—The document entitled "Brand S/Forest Service Land Exchange Specifications" which was jointly developed and agreed to by both parties and defines the non-Federal and Federal lands involved in this exchange, and includes legal descriptions of exchange lands and interests, an Access Resolution Agreement and other agreements is hereby incorporated by reference.

(c) TITLE.

(1) REVIEW OF TITLE.—Within 60 days of receipt of title documents from the Corporation, the Secretary shall review the title for the non-Federal lands described in paragraph (b) and determine whether.—

(A) the applicable title standards for Federal land acquisition have been satisfied or the quality of title is otherwise acceptable to the Secretary;

(B) all draft conveyances and closing documents have been received and approved; and

(C) a current title commitment verifying compliance with applicable title standards has been issued to the Secretary.

(2) CONVEYANCE OF TITLE.—In the event the quality of title does not meet Federal standards or is otherwise unacceptable to the Secretary, the Secretary shall advise the Corporation regarding corrective actions necessary to make an affirmative determination. The Secretary, acting through the Secretary of the Interior, shall affect the conveyance of lands described in paragraph (b)(2) not later than 90 days after the Secretary has made an affirmative determination.

(d) RESOLUTION OF PUBLIC ACCESS.—In accordance with the terms of the Access Resolution Agreement referenced in paragraph (b)(3), the Secretary shall secure legal pubic road access to Gallatin National Forest System lands in: (1) the Eightmile Creek area and (2) the Miller Gulch-Fridley Creek-Dry Creek area.

SEC. 3. GENERAL PROVISIONS.

(a) MAPS AND DOCUMENTS.—The maps referred to in section 2 are subject to such minor corrections as may be agreed upon by the Secretary and the Corporation. The Secretary shall notify the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives of any corrections made pursuant to this paragraph. The maps and documents described in section 2(b)(1) and (3) shall be on file and available for public inspection in the office of Chief, Forest Service, USDA.

(b) NATIONAL FOREST SYSTEM LANDS.—

(1) IN GENERAL.—All lands conveyed to the United States under this Act shall be added to and administered as part of the Deerlodge or Gallatin National Forests, as appropriate, of the National Forest System by the Secretary in accordance with the laws and regulations pertaining to the National Forest System.

(2) WILDERNESS STUDY AREA ACQUISITIONS.—Lands acquired within the Hyalite-Porcupine-Buffalo Horn Wilderness Study Area shall be managed to maintain their wilderness character and potential for inclusion in the National Wilderness Preservation System in accordance with the Montana Wilderness Study Act of 1977 (16 U.S.C. 1132 note). Subject to valid existing rights, lands acquired within the Hyalite-Porcupine-Buffalo Horn Wilderness Study Area shall not be available for entry, appropriation, or disposal under the public land laws; for location, entry, and patent under the mining laws; or for disposition under the mineral and geothermal leasing laws, including all amendments thereto, until such time as the Congress decides on the wilderness status.

(c) VALUATION.—The values of the lands and interests in lands to be exchanged under this Act and described in section 2(b) are deemed to be of approximately equal value.

(d) HAZARDOUS MATERIAL LIABILITY.—The United States of America, including its departments, agencies, and employees, shall not be liable under the Comprehensive Environmental Response, Compensation and Liability Act, as amended (herein referred to as CERCLA), 42 USC 9601 et seq., or the Clean Water Act, 33 USC 1251, et seq., or any other Federal, State or local law, solely as a result of acquiring an interest in the Lost Creek Tract or due to circumstances or events occurring before acquisition, including any release or threat of release of hazardous substances.

DRAFT—BRAND-S/FOREST SERVICE LAND EXCHANGE SPECIFICATIONS—BRAND-S LAND EXCHANGE ACT OF 1994

PART I

Property that Brand S Corporation will offer conveyance to the United States: Principal Meridian—Montana.

Deerlodge NF

Lost Creek Tract:	
T. 5 N., R. 11 W:	
Sec. 6, all fractional	638.69
Sec. 7, Lots 1–10 inclusive, E½NE¼, NW¼NE¼, NE¼NW¼, SE¼SW¼ NE¼SE¼	573.82
Sec. 8, SW¼NE¼, W½, SE¼	520.00
Sec. 9, lots 6, 7, NW¼SW¼, S½SW¼ (includes MS 4170)	239.56
Sec. 16, all fractional (excludes HES 80, includes portions of MS 6542 & MS 6577	630.28
Sec. 17, all fractional (includes portions of MS 6542 & MS 6577)	634.86
Sec. 18, Lots 1–8 inclusive, NE¼NE¼, S½NE¼, E½NW¼NE¼SW¼N½SE¼	630.49
Sec. 20, lot 1, NW¼NE¼, S½NE¼, SE¼ (includes portion of MS 6577)	320.00

Sec. 21, lot 1, NE¼, NE¼NW¼, SW¼NW¼, N½SE¼NW¼, SW¼SE¼NW¼, NW¼NE¼SW¼, W½SW¼, SE¼ (includes portion of MS 6577)	560.00
Sec. 22, lots 1-8 inclusive, NW¼NE¼, S½NE¼, W½W½ T. 5 N., R. 12 W:	563.48
Sec. 1, all fractional	640.08
Sec. 2, Lots 1-4 inclusive, S½N½, S½ less MS 5023	633.04
Sec. 3, lots 1, 2, S½NE¼, SE¼	320.07
Sec. 11, all	640.00
Sec. 12, all	640.00
Sec. 13, E½	320.00
Sec. 14, lots 10, 11, W½NW¼, SW¼, MS 9040	330.06
T. 6 N., R. 11 W:	
Sec. 30, lots 3, 4, E½SW¼, SE¼	314.32
Sec. 31, all fractional	628.56
T. 6 N., R. 12 W:	
Sec. 22, SE¼NE¼, E½SE¼	120.00
Sec. 23, SW¼NW¼, SW¼, SW¼ SE¼	240.00
Sec. 25, SW¼NE¼, NW¼NW¼, S½NW¼, S½	480.00
Sec. 26, all	640.00
Sec. 27, all	640.00
Sec. 34, all	640.00
Sec. 35, all less MS 5023	630.44
Sec. 36, all	640.00
Subtotal to Deerlodge NF	13,807.75

Gallatin NF

West Pine Tract:	
T. 4 S., R. 7 E:	
Sec. 1, all fractional	629.53
Sec. 11, all	640.00
Sec. 13, all fractional	642.64
T. 4 S., R. 8 E:	
Sec. 7, all	640.00
Mud Lake Tract:	
T. 5 S., R. 7 E:	
Sec. 5, all fractional	654.44
Sec. 7, all fractional	630.20
Sec. 9, all	640.00
Subtotal to Gallatin NF	4,476.81

Comprising 18,284.56 acres, more or less

Land reservations of Brand S Corporation and exceptions to title:

RESERVATIONS

Reserving to Brand S Corporation, its successors and assigns, until five (5) years from the date legislation is enacted, the right to harvest and remove up to 60% of the existing merchantable timber from sections 1 and 7 of the West Pine Tract. This is more specifically defined as a right to harvest up to a total of 1383 thousand board feet (MBF) from section 1, T.4 S., R.7 E. and section 7, T.4 S., R.8 E. Exercise of these rights is subject to the Secretary's Rules and Regulations in 36 CFR 251.14 and the Timber Harvest Guidelines (Exhibit A).

OUTSTANDING RIGHTS

1. The rights of the United States and third parties recited in the patents from the United States.

2. An undivided one-fourth of all minerals, including oil and gas as contained in deed to Edward Mott and June Mott dated March 28, 1961, recorded February 17, 1965 in Volume 107, pages 481-482, records of Park County, MT. Affects all lands in T. 4 S., Rs. 7 and 8 E.

3. All mineral rights and mineral interest whatsoever which were owned of record by George E. Lefgren and Fern Lefgren on September 20, 1968 as contained in Contract for Deed dated September 20, 1968, recorded February 1, 1984 in Roll 46, pages 134-137, records of Park County, MT. Affects all lands in T. 5 S., R. 7 E.

4. Provisions as contained in deed to Mt. Haggin Livestock, Inc. recorded in Book 41, page 390, Granite County, MT. Affects all lands in T. 6 N., R. 12 W.

5. An easement for road purposes as contained in deed to Story Ranch Corporation, recorded January 3, 1975 on Roll 10, pages 1331-1333, Park County, MT. Affects section 9, T. 5 S., R. 7 E.

6. Right of adjacent landowners to water portions of the premises as an incident to their irrigation processes as contained in deed to YVR Partnership recorded June 7, 1978 on Roll 22, pages 1054-1058, Park County, MT. Affects all lands in T. 4 S., Rs.7 E. and 8, E; T. 5 S., R. 7 E.

7. Easement for a public road granted to the State of Montana recorded in Book 42, page 187, Deer Lodge County, MT. Affects section 9, T. 5 N. R. 11 W.

8. Easement for a public road granted to the State of Montana recorded in Book 42, page 169, Deer Lodge County, MT. Affects section 9, T. 5 N., R. 11 W.

9. Lack of legal access.

OTHER ENCUMBRANCES

1. Unrecorded Consent for Access to EPA, including its contractors, for purposes of obtaining a hazardous materials inventory.

Consent for access will be terminated and an authorization for access will be issued by the Forest Service to EPA, including its contractors, at closing.

2. Grazing authorization (unwritten).

Disposition?

3. Improvements.

Brand S Corporation will remove from the involved non-Federal lands, all structures and improvements located on two sites in the SW¼NE¼ of Sec. 36, T. 6 N., R. 12 W. and in the SW¼SW¼ of sec. 2, T. 5 N., R. 12 W. Such removal shall occur prior to acceptance of title by the Secretary.

4. Water right.

(1) Source: Unnamed Trib., Crystal Creek, Water Rights No. 43B-W-194420-00, T. 5 S., R. 7 E, Sec. 9.

(2) Source: W. Pine Creek, Water Rights No. 43B-E-085045-00, T. 4 S., R. 7 E., Sec. 13.

Need disposition from Mike Atwood.

6. Delinquent general county taxes for second half of 1992, 1993, 1994 and 1996, if applicable.

Appropriate arrangements will be made to insure payment of these taxes.

6. Mortgage to secure an indebtedness recorded June 8, 1992 in Book 85, page 253, Mortgagor. Brand S. Corporation; Mortgagee: United States National Bank of Oregon. Affects all lands in Deer Lodge County, MT.

This item will be satisfied and the mortgage released.

7. Mortgage to secure an indebtedness recorded April 20, 1993 on Roll 92, pages 874-875. Mortgagor: Brand S Corporation; Mortgagee: Bridge Mountain Trails, Inc. Affects all lands in Park County, MT.

This item will be satisfied and the mortgage released.

8. Mortgage to secure an indebtedness recorded June 8, 1992 on Roll 33, page 987. Mortgagor: Brand S Corporation; Mortgagee: United States National Bank of Oregon. Affects all lands in Granite County, MT.

This item will be satisfied and the mortgage released.

9. Financing Statement converting all timber filed June 8, 1992 as NO. 7601. Affects all lands in Deer Lodge County, MT.

This item will be released and removed from title.

10. Financing Statement filed June 8, 1992 as No. 23793. Affects all lands in Granite County, MT.

This item will be released and removed from title.

11. Contract for deed recorded May 30, 1975 on Roll 12, pages 48-52. Seller: Springhill Ranch; Buyer John S. Brandis, Jr. and Evelyn Fosse Brandis. Buyer's interest conveyed as contained in Bargain and Sale Deeds recorded January 2, 1992 on Roll 85, pages 28-31 and on Roll 85, pages 32-35. Affects all lands in Park County, MT.

These items will be removed from the title.

PART II

Property that the United States will offer for conveyance to Brand S Corporation: Principal Meridian—Montana.

Deerlodge NF

Elk Park Tract:	
T. 4 N., R. 7 W:	
Sec. 2, lots 1-7 inclusive, SW¼NE¼, SE¼NW¼, E½SW¼, NW¼SE¼	501.99
Sec. 11, lots 7, 8, W½NW¼, SE¼NW¼, SW¼SW¼	220.29
Sec. 14, lots 2 and 3	74.41
Rumsey Tract:	
T. 6 N., R. 13 W:	
Sec. 5, part of lot 1 (2 acres approx), lots 2-7 inclusive, SW¼NW¼ (estimated)[1]	221.44
Sec. 6, lots 1-12 inclusive, E½SW¼, W½SE¼	556.29
Sec. 8, lot 1	50.16
Sec. 18, all fractional	636.72
Marshall Creek Tract:	
T. 7 N., R. 15 W:	
Sec. 1, lots 1-4 inclusive, S½N½, S½	641.20
T. 7 N., R. 14 W:	
Sec. 6, lots 1-5 inclusive, SE¼NE¼, NE¼SE¼	273.50
Maywood Ridge Tract:	
T. 8 N., R. 13 W:	
Sec. 2, S½SE¼NE¼, S½NW¼, S½	420.00
Subtotal Deerlodge NF (estimated)	3606.00

[1] Survey (supplemental plat) will be required.

Together with the right to harvest timber subject to the Timber Harvest Guidelines, as set forth in Exhibit A of this document, on the following lands:

	MBF
Highlands Tract:	
T. 1 S. R. 7 W: Sec. 6, all fractional	1200
Prison Tract:	
T. 8 N., R. 10 W:	
Sec. 30, all fractional	1685
T. 7 N., R. 10 W:	
Sec. 6, all fractional	564
Total estimated volume	3449

RESERVATIONS

1. Excepting and reserving to the United States a right-of-way thereon for ditches or canals constructed by the authority of the United States (Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945).

2. Excepting and reserving to the United States and its assigns from the lands so granted, an exclusive perpetual easement, including all right, title and interest for existing roads as shown approximately on attached Exhibits * and more particularly identified and described herein, and all appurtenances thereto, over, upon, or under the land so granted, together with such reasonable rights of temporary use of lands im-

mediately adjacent to said right-of-way as may be necessary for the maintenance and/or repair of said roads.

Said easements shall be sixty (60) feet in width, thirty (30) feet on each side of the centerline with such additional width as required for adequate protection of cuts and fills.

The centerline of the roads lying approximately as follows:

(a) Forest Road No. 1537 (existing): Beginning approximately 400 ft. south of the northwest corner of Sec. 2, T.4 N., R.7 W., over and across Sec. 2 in a northerly direction, and ending approximately 200 ft. south of the northwest corner. Approximate length of segment is 200 ft. Affects NW¼ of Sec. 2, T.4 N., R.7 W., P.M.MT. (Elk Part Tract).

(b) Forest Road No. 442—Segment 1 (existing): Beginning in the southeast corner of Lot 8 of Sec. 11, T.4 N., R.7 W., which is approximately 1,850 ft. northeast of the southwest corner of Sec. 11. Over and across Sec. 11 in a north, northeasterly direction for approximately ½ mile to a point on the north line of the SE¼NW¼ of Sec. 11, which is approximately 2,400 ft. southeast of the northwest corner of Sec. 11. Affects SE¼NW¼ and NE¼SW¼ of Sec. 11, T.4 N., R.7 W., P.M.MT. (Elk Part Tract).

(c) Forest Road No. 442—Segment 2 (existing): Beginning on the east line of the NW¼NW¼ of Sec. 11, which is approximately 1,400 ft. southeast of the northwest corner of Sec. 11 and traversing over and across Sec. 11 in a northwesterly direction for approximately .20 miles to the north section line of Sec. 11, which is approximately 425 ft. east of the northeast corner of Sec. 11. Affects NW¼NW¼ of Sec. 11, T.4N., R.7W., P.M.MT. (Elk Park Tract).

(d) Forest Road No. 9427 (existing): Beginning on Road No. 442, approximately 900 ft. southeast of the northwest corner of Sec. 11, T.4N., R.7W., thence traversing over and across the W½NW¼ of Sec. 11 in a southwesterly direction for approximately .30 mile, ending on the west line of Sec. 11, approximately 1,450 ft. south of the northwest corner of Sec. 11. Affects NW¼NW¼ of Sec. 11, T. 4N., R. 7W., P.M.MT. (Elk Park Tract).

(e) Forest Road No. 1567 (existing): Beginning on the west line of Lot 1 of Sec. 8, T. 6N., R. 13W., approximately 1,500 ft. south of the northwest corner of Sec. 8, thence traversing over and across Lot 1 of Sec. 8 in an easterly direction for approximately .10 mile to the east line of Lot 1. Affects Lot 1 of Sec. 8, T.6N., R.13W., P.M.MT. (Rumsey Tract).

(f) Forest Road No. 1578 (existing): Beginning on the west line of Sec. 18, T. 6N., R. 13W., approximately 350 ft. south of the northwest corner of Sec. 18, thence traversing over and across the W½ of Sec. 18 in a southeasterly to west direction for approximately 1.25 miles and ending on the south line of Sec. 18 approximately 150 ft. east of the southwest corner. Affects W½ of Sec. 18, T.6N., R.13W., P.M.MT. (Rumsey Tract).

(g) Forest Road No. 78350 (existing): Beginning on Forest Road No. 1578 in the SW¼SW¼of Sec. 18, T. 6N., R.13W., approximately 700 ft. northeast of the southwest corner of Sec. 18, thence traversing over and across the S½SW¼SW¼ in a southeasterly direction for approximately .19 mile, and ending on the south line of Sec. 18 approximately 1,000 ft. east of the southwest corner of Sec. 18. Affects S½SW¼SW¼ of Sec. 18, T.6N, R.13W., P.M.MT. (Rumsey Tract).

(h) Forest Road No. 1528 (existing): Beginning in the NW¼NW¼ of Sec. 6, T.7N., R.14W., approximately 750 ft. east of the northwest corner of Sec. 6, thence traversing over and across the NW¼NW¼NW¼ in a southwesterly direction for approximately .15 mile, and ending on the west line of Sec. 6 approximately 200 ft. south of the northwest corner of Sec. 6. Affects NW¼NW¼NW¼ of Sec. 6, T.7N., R.14W., P.M.MT. (Marshall Creek Tract);

Also, beginning in the NW¼NE¼ of Sec. 1, T.7N., R.15W., approximately 200 ft. south of the northeast corner of Sec. 1, thence traversing over and across the NE¼NE¼ in a northwesterly direction for approximately .33 mile, and ending on the north line of Sec. 1 approximately 1,200 ft. west of the northeast corner of Sec. 1. Affects NE¼NE¼ of Sec. 1, T.7N., R. 15W., P.M.MT. (Marshall Creek Tract).

(i) Forest Road No. 8402 (existing): Beginning on the north line of the SE¼NW¼ of Sec. 2, T.8N., R. 13W., approximately 2,600 ft. southeast of the northwest corner of Sec. 2, thence traversing over and across the SE¼NW¼ in a southeast direction for approximately .21 mile and ending on the east line of the SE¼NW¼ approximately 2,650 ft. south of the north ¼ corner of Sec. 2. Affects the SE¼NW¼ of Sec. 2, T.8N., R. 13W., P.M.MT. (Maywood Ridge Tract)

Also, beginning on the north line of the NW¼SE¼ of Sec. 2, T. 8N., R.13W., approximately 2,500 ft. west of the east ¼ corner of Sec. 2, thence traversing over and across the W½SE¼ in a southerly direction for approximately .50 mile and ending on the south line of the SW¼SW¼SE¼ approximately 2,100 ft. west of the southeast corner of Sec. 2. Affects the W½SE¼ of Sec. 2, T. 8 N., R. 13 W., P.M.MT. (Maywood Ridge Tract)

Also, beginning on the south line of the SE¼SW¼ of Sec. 2, T. 8 N., R. 13 W., approximately 400 ft west of the south ¼ corner of Sec. 2, thence traversing northwest and thence back southeast through the SE¼SW¼ for approximately .55 mile and ending on the south line of the SE¼SW¼ approximately 700 ft. west of the south ¼ corner of Sec. 2. Affects the SE¼SW¼ of Sec. 2, T. 8 N., R. 13 W., P.M.MT. (Maywood Ridge Tract)

(j) Forest Road No. 5123 (existing): Beginning at its junction with Forest Road No. 8402 on the north line of the SE¼SW¼, Sec. 2, T. 8 N., R. 13 W., approximately 1,600 ft. northwest of the south ¼ corner of Sec. 2, thence traversing over and across the S½SW¼ in a southwesterly direction for approximately .47 mile and ending on the south line of the SW¼SW¼ approximately 50 ft. east of the SW¼ corner of Sec. 2. Affects the S½SW¼ of Sec. 2, T. 8 N., R. 13 W., P.M.MT. (Maywood Ridge Tract)

(k) Forest Road No. 78488 (existing): Beginning at its junction with Forest Road No. 8402, which is approximately 30 ft. north of the south line of Sec. 2, T. 8 N., R. 13 W., thence traversing over and across the SE¼SE¼SW¼ in a southeasterly direction for approximately .06 mile and ending on the south line of the SE¼SW¼ approximately 550 ft. east of the south ¼ corner of Sec. 2. Affects the SE¼SW¼ of Sec. 2, T. 8 N., R. 13 W., P.M.MT. (Maywood Ridge Tract)

Provided, that if the Regional Forester determines that the road, or any segment thereof, is no longer needed for the purposes reserved, the easement shall terminate. The termination shall be evidenced by a statement in recordable form furnished by the Forest Supervisor to the Landowner, or its successors or assigns in interest.

OUTSTANDING RIGHTS AND AUTHORIZED USES

1. Existing Contract/Agreements/Memoranda of Understanding: None, except as identified herein.

2. Existing public roads: None.

3. Special use authorizations: Telephone and telegraph permit (underground phone line) T. 4 N., R. 7 W., Sec. 11 (Elk Park Tract), James Harrington, Permit expiration date: December 31, 2001. Authorized by the Federal Land Policy and Management Act of 1976.

Transmission line: T. & N., R.13 W., Sec. 2 (Maywood Ridge Tract), Montana Power Company (33 ft. wide R/W; Brooklyn-Princeton Line).

These special use permits will terminate upon conveyance of the involved federal lands. The Forest Service will notify the permit holders in advance. The Forest Service will assist this permit holders in making new arrangements with the non-Federal party.

Land use area permit: T.7 N., R.15 W., Sec. 6 (Marshall Creek Tract), Mary Kelley.

This permit will be terminated. Permit holder will acquire this area from Brand S Corporation.

4. Road Easements: None.

5. Grazing permits:

Lowland Allotment: T.4 N., R.7 W., Secs. 2, 11 and 14 (Elk Park Tract), Miles and Dale Carpenter, Henry Cerise, Ester and William Francone.

Parini Allotment: T.4 N., R.7 W., Sec. 2 (Elk Park Tract), Rudolph Parini.

Spring Park Ranch Allotment: T.6 N., R.13 W., Sec. 18 (Rumsey Tract), Steve Grange.

Marshall Creek Allotment: T.7 N., R.14 W., Sec. 6 (Marshall Creek Tract), Black Pine Ranch and Linda Yardley.

Gird Creek Allotment: T.8 N., R.13 W., Sec. 2 (Maywood Ridge Tract), Alan Boomer and Allen Morson.

As provided by section 402(g) of the Federal Land Policy Management Act of 1976, no permit or lease shall be canceled without two years' prior notification. The permittees may elect to waive this right. The Forest Service will notify each permittee of the proposed exchange. If applicable, the grazing use will be reserved in the patent for the duration of the two-year notification period.

6. Mining claims: None.

7. Oil & Gas Leases: None.

8. Withdrawals: None.

9. Water Rights: None.

10. Phosphate Lease: Legal Description—T.8 N., R.13 W., Sec. 2. Lease No. MTM 055657. Lease Holder: Cominco.

The Forest Service will request the lease holder to relinquish or modify its lease to exclude the lands involved in this exchange. If the lease holder opts not to relinquish or modify its lease, the phosphate estate will be reserved by the United States in the patent until termination or relinquishment of the lease. Upon termination or relinquishment of the said lease all the rights and interest to the phosphate deposit shall automatically vest in the patentee, its successors in interest or assigns.

11. Other Encumbrances: Subject to the interest, if any, created by an existing powerline (affects lots 1–4 and the NE¼NW¼ of sec. 18. T. 6 N., R. 13 W.) (Rumsey Tract).

Gallatin NF

Wineglass tract:	
T. 3 S, R. 8 E.:	
Sec. 2, lots 1–4 inclusive, S½N½	336.48
Sec. 10, E½	320.00
Sec. 12, lots 1–4 inclusive, W½E½, N½NW¼, SE¼NW¼, SE¼SW¼	481.08
T. 3 S, R. 9 E.:	
Sec. 6, all fractional	614.75
Sec. 8, all	640.00
Pole Gulch tract:	
T. 5 S., R. 7 E.:	
Sec. 2, all fractional	641.81

Sec. 10, all fractional	620.16
Sec. 12, all	640.00
Sec. 14, all	640.00
Sec. 24, N½NE¼, SW¼NE¼, N½SE¼NE¼, NW¼, N½SW¼, SW¼SW¼, S½SE¼SW¼, NW¼SE¼	480.00
T. 5 S., R. 8 E.:	
Sec. 6, all fractional	643.62
Sec. 18, all fractional	637.76
Little Donahue tract:	
T. 6 S., R. 7 E.:	
Sec. 30, lots 1–4 inclusive, E½E½, NW¼NE¼, E½W½, SW¼SE¼	533.92
Subtotal Gallatin NF	7,229.57

Comprising in total 10,835.57 acres, more or less.

RESERVATIONS

1. Excepting and reserving to the United States a right-of-way thereon for ditches or canals constructed by the authority of the United States (Act of August 30, 1980, 26 Stat. 391; 43 U.S.C. 945).

2. Road and trail reservations: As provided within the Access Resolution Agreement (Exhibit B), the Forest Service will reserve in the patents/deeds those trail and road segments that may be needed after exchange for access to adjoining National Forest System (NFS) lands.

a. Road reservations: Excepting and reserving to the United States and its assigns from the lands so granted, an exclusive perpetual easement, including all right, title and interest for existing roads as shown approximately on attached Exhibits and more particularly identified and described herein, and all appurtenances thereto, over, upon, or under the land so granted, together with such reasonable rights of temporary use of lands immediately adjacent to said rights-of-way as may be necessary for the maintenance and/or repair of said roads.

Said easements shall be sixty (60) feet in width, thirty (30) feet on each side of the centerline, with such additional width as required for adequate protection of cuts and fills.

The centerline of each road lying approximately as follows:

(i) Eightmile Creek Road No. 2553 (existing): Beginning at a point on the east property line of NE¼NE¼ of Section 6, T5S, R8E, P.M., MT.; Thence over and across said NE¼NE¼ of Section 6 in a west-northwesterly direction approximately 0.2 mile; and ending at a point on the north line of the NE¼NE¼ of said Section 6; and including additional area for vehicle parking along the south side of the road in said NE¼NE¼ of Section 6. The parking area measures approximately fifty (50) feet in width (north-south) by one hundred twenty (120) feet in length (east-west), which is in addition to and located outside the road right-of-way limits.

(ii) Miller Creek Road No. 1769 (existing): Beginning at a point on the east property line of SE¼SE¼SE¼ of Section 10, T5S, R7E, P.M., MT; Thence over and across said SE¼SE¼SE¼ of Section 10 in a southwesterly direction approximately 0.1 mile; and ending at a point on the south line of said SE¼SE¼SE¼ of Section 10.

It is agreed that the Landowner, its successors and assigns, shall have the right to use the existing roads described above for all purposes deemed necessary or desirable in connection with the protection, administration, management, and utilization of Landowner lands or resources, subject, however, to traffic-control regulations under 36 CFR 261.12, and the bearing of road maintenance costs proportionate to use as provided in 36 CFR 212.7(d).

Provided, that if the Regional Forester determines that the roads, or any segment thereof, is no longer needed for the purposes reserved, the easement shall terminate. The termination shall be evidenced by a statement in recordable form furnished by the Forest Supervisor to the Landowner, or its successors or assigns in interest.

b. Trail reservation: Also, excepting and reserving to the United States and its assigns from the lands so granted, an exclusive perpetual easement, including all right, title and interest for an existing trail as shown approximately on attached Exhibit and more particularly identified and described herein, and all appurtenances thereto, over, upon, or under the land so granted, together with such reasonable rights of temporary use of lands immediately adjacent to said right-of way as may be necessary for the maintenance and/or repair of said trail.

Said trail easement shall be twenty (20) feet in width, ten (10) feet on each side of the centerline, with such additional width as required for adequate protection of cuts and fills.

The centerline of the trail lying approximately as follows:

(i) South Fork Eightmile Trail No. 146 (existing): Beginning at a point on the west property line of Section 10, T5S, R7E, P.M., MT. near the west 1/4 corner of said Section 10; THENCE over and across the S1/2 of said Section 10 in a southeasterly direction approximately 1.2 miles; and Ending at a point on the east line of the SE1/4SE1/4 of said Section 10.

Provided, that if the Forest Supervisor determines that the trails, or any segment thereof, is no longer needed for the purposes reserved, the easement shall terminate. The termination shall be evidenced by a statement in recordable form furnished by the Forest Supervisor to the Landowner, or its successors or assigns in interest.

OUTSTANDING RIGHTS AND AUTHORIZED USES

1. Existing Contracts/Agreements/Memoranda of Understanding: None, except as identified herein.

2. Existing public roads: None.

3. Special use authorizations:

James L. and Gayle E. Murphy—FLPMA permit in T.6S., R.7E. Section 30. Permit is for access to private lands within the Gallatin National Forest boundary for the purpose of harvesting timber, and expires and terminates December 31, 1995.

Wineglass Joint Venture—FLPMA permit for access to private lands. Lands covered by the permit are located in T.3.S., R.9E., Section 8, NE1/4. This permit expires and terminates on December 31, 2003.

Montana Land and Cattle Company—Special Use Permit for a water transmission pipeline across T.5S., R.7E., Section 12, NE1/4. This permit expires and terminates on December 31, 2001.

These special use permits will terminate upon conveyance of the involved federal lands. The Forest Service will notify the permit holders in advance and assist these permit holders in making new arrangements with the non-Federal party.

4. Road Easements: None.

5. Grazing Allotments: Wineglass Allotment includes lands in the following sections: T.3S., R.8E., Sec. 2, portion; T.3S., R.9E., Sec. 6, portion, and Sec. 8, portion;

Wineglass allotment has been vacant since 1986.

Coke Allotment includes lands in the following sections:

T.3S., R.8E., Sec. 2, portions of section not in Wineglass Allotment, and Sec. 10 and 12, portions (160 acres is owned by Peterson).

T.3S., R.9E., Sec. 6 and Sec. 8, portions of sections that are not in Wineglass Allotment are in the Coke allotment.

The following hold permits in Coke Allotment: Brawner Ranch Co., Quenton Brawner, Depuy Enterprises, O'Hair Ranch Company, Hilda Peterson.

Pole Gulch Allotment includes lands in the following sections: T.5S., R.7E., Sec. 2 all, Sec. 10 portion, Sec. 12 all, Sec. 14 portion and Sec. 24 portion; T.5S., R.8E., Sec. 6 and Sec. 18, all:

The following hold permits in Pole Gulch Allotment: John S., Jr. and Evelyn F. Brandis.

Fridley Creek Allotment includes lands in the following sections: T.5S., R.7E., Sec. 10, 14 and 24, portions that are not included in the Pole Gulch Allotment.

The following hold permits on Fridley Creek Allotment: Dan Brutger, Story Ranch Company.

Big Creek Allotment includes lands in the following sections: T.6S., R.7E., Sec. 30.

The following individuals hold permits on the Big Creek Allotment: James L. and Gayle E. Murphy.

As provided by section 402(g) of the Federal Land Policy Management Act, no permit or lease shall be canceled without two years' prior notification. The permittees may elect to waive this right in writing. The Forest Service will notify each permittee of the proposed exchange. If applicable, the grazing use will be reserved in the patent for the duration of the two year notification period.

6. Mining claims: None.

7. Oil and Gas Leases:

Legal Description, Lease No., and Lease Holder:

T.3S., R.8E., Sec. 2; M32847; Equitable Resources Energy Co.

T.3S., R.8E., Sec. 10; M34549; Wolverine Exploration Co., Texaco Exploration & Production.

T.3S., R.9E., Sec. 6; M32848; Equitable Resources Energy Co.

T.5S., R.7E., Sec. 2; M36455; Conoco, Inc.

T.5 S., R.7 E., Sec. 10, 12 & 14; M36454; Conoco, Inc.

T.5 S., R.7 E., Sec. 24; M36453; Conoco, Inc.

T.5 S., R.7 E., Sec. 6 & 18; M36451; Conoco, Inc.

T.6 S., R.7 E., Sec. 30; M36456; Conoco, Inc.

The above leases have been suspended by the BLM under the Ninth Circuit Court of Appeals Ruling in Connor vs. Burford.

The Forest Service will request each of the lease holders to relinquish or modify their leases to exclude the lands involved in this exchange. If the lease holders opt not to relinquish or modify their leases, the oil/gas estates will be reserved by the United States in the patent until termination or relinquishment of the leases. Upon termination or relinquishment of the said lease all the rights and interests to the oil and gas deposits shall automatically vest in the patentee, its successors in interest or assigns.

8. Withdrawals: None.

9. Water Rights:

(1) Source: Unnamed Trib., Strickland Creek, Water Right No. 43B–W–059905–00, T. 3 S., R. 8 E., Sec. 12.

(2) Source: Strickland Creek, Water Right No. 43B–W–059963–00, T. 3 S., R. 8 E., Sec. 12.

The Forest Service will transfer these water rights to Brand-S, provided that Brand-S shall allow existing (stock water) uses to continue until the involved grazing permits terminate (within two years from the date of notification).

10. Other Encumbrances: None.

PART III—GENERAL AGREEMENTS

1. Upon conveyance of the timber on the Highlands and Prison Tracts, Brand-S Corporation agrees to implement and abide by the Timber Harvest Guidelines (Exhibit A) as developed and mutually agreed upon between the parties.

2. Both parties agree to the provisions in the Access Resolution Agreement (Exhibit B) which pertain to access on the Gallatin NF and it is hereby made a part of this document.

3. Upon completion of the land exchange, Jack Brandis, owner of Brand S Corporation, has pledged to donate, and The Nature Conservancy has agreed to accept, conservation easements (in the form of permanent deed restrictions) on the lands that Brandis will receive in the Pole Gulch, Little Donahue and Wineglass Tracts (excepting the E½ of sec. 10, T. 3 S., R. 8 E.). Brandis has also pledged to include in the grant of conservation easement the additional contiguous acreage that he owns in the Pole Gulch area. The voluntary decision by Brandis to convey these permanent conservation easements to the Conservancy will ensure that future subdivision and development are limited, and that forestry and range management activities are conducted in a manner consistent with the conservation of wildlife habitat, watershed and open-space characteristics.

4. Brand S Corporation, its transferees and assigns, or other successors in interest, agree that these provisions shall be a covenant running with the subject property, and that they shall indemnify, defend and hold the United States of America, its various agencies and/or employees, harmless from any damage, loss, claims, liability and costs resulting in any way from the United States' ownership, and/or any and all activities, operations (including but not limited to the storing, handling, and dumping of hazardous materials or substances), or other acts conducted by Brand S Corporation or its licensees, employees, agents, successors or assigns on the Lost Creek Tract, whether such activities, operations or other acts occurred prior to, on, or after the enactment of the Brand S Land Exchange Act of 1994. This covenant shall be enforceable by the United States in a Court of competent jurisdiction.

5. Both parties agree that these Land Exchange Specifications may be amended at any time by mutual agreement. Any such amendment(s) must be in writing and signed by the parties hereto. Any such amendment(s) shall be provided by the Forest Service to the Energy Committee of the United States Senate and by the Interior Committee of the United States House of Representatives. Minor technical changes mutually agreeable to both parties, but not subject to Committee notice, shall be documented, signed, and made part of these Specifications.

In witness whereof, the Landowner and the Regional Forester, acting for and on behalf of the Forest Service have executed these Specifications. The Specifications shall be effective on the last date signed.

Landowner: Brand S Corporation, An Oregon Corporation.

Name, Title, and Date.

(Corporate Seal.)

Attest:

Title.

United States of America, USDA, Forest Service.

David F. Jolly, Regional Forester and Date.

EXHIBIT DRAFT TIMBER HARVEST GUIDELINES

The objective of Brand S will be to sustain and enhance the forest resources through effective use of conservation forestry practices. Timber harvest will be directed to maintain sustainability of all forest resources, and diversity of forest types, ages and stand structure, and to emulate the historical range of variability and vegetative patterns.

Brand S and the U.S. Forest Service agree that general Timber Harvest Guidelines contained in Part I of this text will apply to timber reserved by Brand S in the West Pine Tract on the Gallatin National Forest of this exchange. The parties further agree that the Timber Harvest Guidelines contained in Part II of this text will apply to the Prison and Highlands Tracts on the Deerlodge NF lands where timber only is to be conveyed to Brand S.

PART

The parties agree that these guidelines will apply to Gallatin NF lands where timber is reserved by Brand S on the West Pine Tract.

The following guidelines will not preclude Brand S from harvesting timber volumes to meet timber valuation contained in the exchange.

Brand S will consult and coordinate with the appropriate public agencies (U.S. Forest Service-Gallatin National Forest, State Department of Lands, and Montana Department of Fish, Wildlife, and Parks (MDFWP)) in design, implementation and monitoring of resource management decisions.

Brand S will meet with a review team comprised of U.S. Forest Service, Montana Department of State Lands, and MDFWP annually to assess harvesting plans and discuss future practices as they relate to general guidelines contained in this text.

Brand S will adhere to all laws pertaining to timber harvest activities including but not limited to the Streamside Management Act, Forestry Best Management Practices (BMP) recognized by the Montana State Department of Lands, Federal Agencies, and the State Legislature as the foundation for timber harvest practices and for fire prevention.

In accordance with the provisions of the Customs and Trade Act of 1990, Title IV—Forest Resource Conservation and Shortage Relief Act of 1990, unprocessed logs originating from reserved timber on the West Pine Tract will not be exported or substituted for other logs that are or will be exported.

The following criteria will be used for project planning and implementation:

A. SPECIFIC RESOURCE CONSIDERATIONS

VISUAL QUALITY

1. The "Modification" Visual Quality Objective (VQO), as defined in the Forest Service Visual Management System will be used as a guide to mitigate visual impacts of timber harvesting. Brand S and Gallatin National Forest will design harvests to emulate natural openings present on the landscape avoiding straight lines and abrupt edges.

WILDLIFE AND FISH HABITAT

1. Adequate forest cover will be retained as much as possible to protect big game and other species.

Elk habitat potential will be maintained where possible by retention of 30% of the total land area in suitable elk cover (cover that hides 90% of an elk at 200 feet). Elk habitat effectiveness will be maintained by managing roads so there is generally less than one mile of open road per section following harvest. It is understood that lands conveyed to Brand S in the Wineglass Tract are exempt due to surrounding existing vegetative conditions and human development which would preclude harvest.

The existing main access road in the Pole Gulch Management Unit (Sections 1, 3, 10, 11, 12, 13, 14 and 24 in T. 5 S., R. 7 E. and Section 18 in T. 5 S., R. 8 E.) will be exempt and remain open at the landowner's discretion.

2. Key habitat components including riparian areas, licks, caves, cliffs, wallows, meadows and parks will be identified and protected in timber harvest and road planning.

3. In harvested areas, an average of at least 3 to 6 snags and an equal number of replacement residual green trees per acre will be retained. The residual trees and snags can be left in a random manner (example, groups, patches and corridors) or uniformly distributed. In proposed harvest areas, the review process will develop prescribed slash plans to meet landowner objectives and to maintain site productivity and wildlife habitat (erosion control, nutrient and organic recycling and animal habitat.

4. Brand S will manage these lands to meet State water quality standards and to maintain fish habitat were applicable.

5. Lands will be managed to retain and enhance aspen and other deciduous trees and shrubs, especially in riparian and wet areas.

WATER AND SOILS

1. Best Management Practices (BMP) will be used in the planning and implementation of harvest and road construction activities. Reference "Montana Forestry Best Management Practices"; 1992 and the 1991 Streamside Management Act.

NOXIOUS WEEDS

1. All harvesting equipment likely to be operated off of road systems will be power washed of weed seeds before entering these lands.

2. Brand S will treat noxious weeds on lands disturbed by their operations during the period of project activities. The total time period will not exceed the five years which Brand S will be permitted to operate on these lands.

B. TIMBER HARVEST

1. The appropriate even-aged or uneven-aged silvicultural system will be used for each stand. Brand S and Gallatin National Forest will agree on the appropriate silvicultural systems and standards for different forest types, to achieve desired vegetative conditions. To the extent possible; silvicultural systems will be designed for natural regeneration.

In general, partial cutting harvest systems that emulate historical vegetative patterns will be utilized. In the Douglas-fir types, partial cutting systems, including shelterwood, group or individual tree selection, and commercial thinning may be used as appropriate to meet management objectives including old growth characteristics. In the lodgepole pine types, age, insect and disease conditions and individual stand conditions will determine silvicultural systems. Clearcutting will be used only where it is the optimum system. Where clearcut harvest is used, reserve patches of advance reproduction and other small diameter trees (lodgepole pine, subalpine fir, Douglas-fir and spruce) and snags will be protected.

2. Harvest openings, location, size and shape will utilize the principles of landscape design as described in the Forest Service Visual Management System, and the principles of wildlife habitat for protection of cover, edge effect, travel linkages and concentrated use areas. Harvest openings created by even-

aged silviculture will normally be 40 acres or less. Any larger openings will be as a result of prescribed harvest to meet historic vegetation variation or as a result of catastrophic fire or insect and disease.

3. Brand S will formulate and implement harvest activity fuel treatment according to Montana State Hazard Reduction Laws.

C. TRANSPORTATION SYSTEM

1. Roads will generally be designed to achieve a minimum distance of 1,000 feet apart except as they approach junctions with other roads. Design features will be utilized as outlined in the Montana Forestry BMP. Secondary roads constructed or used by Brand S will be closed and stabilized, including revegetation and erosion control in an effort to promote wildlife habitat effectiveness and watershed stability.

2. To avoid excessive soil compaction, skid trails will be designed to minimize compaction and generally be located 75 feet apart. Line harvest systems are generally applied for slopes greater than 40%. Soil conditions and topographic features will direct system application.

3. The Forest Service agrees to grant to Brand S appropriate road access and use rights as needed to access, harvest and transport the reserved timber by Brand S in this exchange. Specific road locations and haul routes will be identified by mutual agreement between the Forest Service and Brand S. In a timely manner, the Forest Service will grant road access and use rights appropriate for each access facility, through FLPMA (special use permits) and/or FRTA (commercial road use permits) authorities. The parties agree to cooperate to ensure timely completion of any needed road location, survey, design, exhibit preparation and permit authorization work. This agreement will not obligate Brand S to convey public access in any form in the Pole Gulch management unit.

D. FIELD LAYOUT

TIMBER HARVEST UNITS

1. All units will be flagged in blue ribbon for field review purposes. Following approval, all boundaries will be marked with intervisible, vertical stripes of blue paint on trees at eye level.

TREE DESIGNATION

1. Cut trees will be marked just above ground level on the downhill side with a stump spot and at eye level with a horizontal band of orange paint.

2. Leave trees will be marked with blue paint in the same manner as for cut trees.

3. Designation of cut or leave trees may also be by a combination of species and/or diameter.

VOLUME DETERMINATION

Brand S and Gallatin National Forest will agree on the unit layout, harvest prescriptions and cruise for the tract of land, described below, where 1.383 MMBF of timber is reserved to Brand S for the harvest.

WEST PINE TRACT (SECTION 1 T4S R7E AND SECTION 7 T4S R8E)

1. Volume determination shall be done in accordance with 2409.12 Timber Cruising Handbook and applicable Region 1 supplements. Cruise standards for Tree Measurement Sales shall apply. Minimum standards shall be a tree 7 inches or greater at diameter breast height which contains a 16 foot log to a 5.6÷ top that is at least 33⅓ sound. Brand S and Gallatin National Forest will work together on volume determination. Volume determination shall include all phases of the cruise process including cruise design, traversing when necessary, field measurements and check cruising. Check cruising will be accomplished by a Forest Service Certified Check Cruiser. If the results of the check cruise fail to meet regional standards, an additional check shall be run and combined with the first. If results are still unsatisfactory, 25% of the original samples shall be checked and the cruise adjusted by the difference between the check and the original work.

2. Brand S and Gallatin National Forest will collect cruise information using Forest Service data forms. The information will be run on the Forest Service computer system. Brand S shall be furnished a copy of all input and output data and be able to review the results and check for any errors that would affect the volume. Any input or calculation errors detected shall be corrected.

3. If small cutting units are employed on portions of the area they shall be combined using the subdivision/unit concept for minimum unit sampling error. These units shall be agreed to by the Forest Service and Brand S at the time the cruise is designed.

E. PROJECT IMPLEMENTATION

1. Timber harvest and postsale activities will be completed within five (5) years after the date that legislation is enacted. Extensions of time shall only be granted for causes beyond the control of either party such as extensive periods of moist soils or restrictions due to fire seasons. Brand S will annually develop a schedule of planned activities so that work can be coordinated and completed in a workman-like manner. Brand S will notify the Gallatin National Forest when all timber reservation activities are completed. Agreement on that finding will be reached by both parties.

2. Brand S will formally designate a field representative who will administer the project according to the preapproved conceptual plan.

The Gallatin National Forest will formally designate a project coordinator who will monitor progress and compliance with the preapproved plan.

PART II

The parties agree that these guidelines will apply to the Prison and Highlands Tracts on the Deerlodge National Forest lands where timber only is conveyed to Brand S:

Brand S will adhere to all laws pertaining to forest management activities recognized by the Federal Agencies and the State Legislature as the foundation for sound timber harvest practices and for fire prevention.

In accordance with the provisions of the Customs and Trade Act of 1990, Title IV—Forest Resource Conservation and Shortage Relief Act of 1990, unprocessed logs originating from Deerlodge National Forest lands will not be exported or substituted for other logs that are or will be exported.

The project will be based on the Deerlodge Forest Plan Standards and Management Area direction. However, the standards and direction will not preclude Brand S from harvesting timber volumes to meet timber valuation as defined in the exchange.

The following criteria will be used for project planning and implementation:

A. SPECIFIC RESOURCE CONSIDERATIONS

VISUAL QUALITY

1. The "modification" visual quality objective (VQO), as defined in the Forest Service Visual Management System, will guide design of timber harvesting.

WILDLIFE

1. Adequate forest cover will be retained as much as possible to protect big game and other species.

Elk habitat potential will be maintained where possible by retention of 30% of the total land area in suitable elk cover (cover that hides 90% of an elk at 200 feet). Elk habitat effectiveness will be maintained by managing roads so there is generally less than one mile of open road per section following harvest.

WATER, SOILS AND RIPARIAN

1. Montana State Streamside Zone Rules and Montana Forestry Best Management Practices will be used in the planning and implementation of road construction, harvest and postsale activities.

NOXIOUS WEEDS

1. All harvesting equipment likely to be operated off road systems will be power washed of weed seeds prior to entering these lands.

2. Brand S will treat noxious weeds on lands disturbed by their activities during the period of project activities. The Forest Service will be responsible for treatment at the conclusion of project activities and for other lands not disturbed by Brand S.

RECREATION

1. To minimize impact to recreational activities, the following timing restrictions will apply: In section 30, T8N, R10W, and Section 6, T7N, R10W road construction, logging and post sale activities will be limited to the periods of June 16th through October 14th.

UNIQUE AND CRITICAL HABITATS

1. Key habitat components including riparian areas, licks, caves, cliffs, wallows, meadows and parks will be identified and protected during project activities.

B. TIMBER HARVEST

1. Brand S and Deerlodge National Forest will agree on the appropriate even-aged or uneven-aged silvicultural system to achieve desired vegetative conditions. The desired conditions will be based on target stands and silvicultural prescriptions supplied by the Deerlodge National Forest. To the maximum extent possible, silvicultural systems will be designed for natural regeneration.

In general, partial cutting harvest systems that emulate historical vegetative patterns will be utilized. In the Douglas-fir type, this will include shelterwood, group selection, individual tree selection, and commercial thinning may be used as appropriate to meet management objectives including old growth characteristics. In the lodgepole and spruce-alpine fir types, age, insect and disease conditions and individual stand conditions will determine the appropriate system to use. Clearcutting will be used only where it is the optimum system. Where clearcutting is used, some snags and reserve patches of advance reproduction and other small diameter trees will be protected.

2. Harvest openings location, size and shape will utilize the principles of landscape design as described in the Forest Service Visual Management System, and the principles of wildlife habitat for protection of cover, edge effect, travel linkages and concentrated use areas. Harvest openings created by even-aged silviculture will normally be 40 acres or less. Any larger openings will be as a result of harvest prescriptions to meet historic vegetation variation or as a result of catastrophic fire or insect and disease damage.

3. Stand diagnosis will include a narrative and map display of all proposed logging. The description of stands proposed for logging will include vegetative objectives and field inventory information on species, tree sizes, habitat types, harvest methods, logging methods and post-treatment needs.

4. Brand S will implement fuel treatments (including burning of landings and dozer piles) according to target stand objectives. Broadcast burning will not be considered for this project.

C. TRANSPORTATION PLAN

1. Roads will generally be designed to achieve a minimum distance of 1000 feet apart except as they approach junctions with other roads. Designs will incorporate Montana Forestry BMP. Upon completion of use, roads will be closed and stabilized, including revegetation and erosion control, in an effort to promote wildlife habitat effectiveness and watershed stability.

2. Soil conditions and topographic features will direct systems applications. Operations will only be conducted on slopes over 40% when they can safely be accomplished with dozers or rubber-tired skidders. Operations will be suspended during moist, soil conditions when rutting (tracks greater than 3" deep for more than 10 continuous feet) or excessive soil disturbance is occurring. In soil types that are subject to soil compaction, skidding equipment may be required to operate from skid trails that are generally located at least 75 feet apart.

3. The Forest Service agrees to grant to Brand-S appropriate road access and use rights as needed to access, harvest and transport the national forest timber to be conveyed to Brand-S in this exchange. Specific road locations and haul routes will be identified by mutual agreement between Forest Service and Brand-S. In a timely manner. Forest Service will grant road access and use rights appropriate for each access facility, through FLPMA (special use permits) and/or FRTA (commercial road use permits) authorities. The parties agree to cooperate to ensure timely completion of any needed road location, survey, design, exhibit preparation and permit authorization work.

D. PROJECT DEVELOPMENT

Brand S will take the lead and Deerlodge National Forest will assist and provide guidance to develop the conceptual plan through field layout of harvest activities. The primary method of achieving project approval and monitoring will be through reviews conducted jointly by Brand S and the Deerlodge National Forest. The minimum schedule of office/field reviews will be:

Office review of conceptual paper design and agreement on unit costs of post harvest treatments.

Cruise plan to be reviewed by Forest Service certified cruiser.

Field review when field layout is approximately 50% complete.

Office/field review when field layout is complete and before any ground disturbing activities occur.

On-going road construction, log removal and post sale work will be monitored currently by Forest Service coordinator. A staff field review will be conducted at completion of field activities and as requested by Forest Service coordinator. The intent is to have at least one review during field operations and one at the conclusion of field operations.

E. FIELD LAYOUT

TIMBER HARVEST UNITS

1. All units will be flagged in blue ribbon for field review purposes. Following approval, all boundaries will be marked with the intervisible, vertical stripes of blue paint on trees at eye level.

TREE DESIGNATION

1. Cut trees will be marked just above ground level on the downhill side with a stump spot and at eye level with a horizontal band of orange paint.

2. Leave trees will be marked with blue paint in the same manner as for cut trees.

3. Designation of cut or leave trees may also be by a combination of species and/or diameter.

TIMBER VOLUME DETERMINATION

The project will consist of the removal of about 3.5 million board feet of timber and associated temporary road construction and postsale activities. The volume identified for harvest is located on the lands described as follows:

Highlands Tract—sec. 6, T. 1 S., R. 7 W.

Prison Tract—sec. 30, T. 8 N., R. 10 W. and sec. 6, T. 7 N., r. 10 W.

1. Volume determination shall be done in accordance with 2409.12 Timber Cruising Handbook and applicable Region 1 supplements. Cruise standards for Tree Measurement Sales shall apply. Minimum tree standards shall be at tree 7 inches or greater at diameter breast height which contains a 16 foot log to a 5.6" to that is at least 33⅓ sound. Volume determination shall include all phases of the cruise process including cruise design, traversing when necessary, field measurements and check cruising. Check cruising will be accomplished by Forest Service Certified Check Cruiser and Brand S representative may accompany the Forest Service Check Cruiser. If the results of the check cruise fail to meet regional standards, an additional check shall be run and combined with the first. If results are still unsatisfactory, 25% of the original samples shall be checked and the cruise adjusted by the difference between the check and the original work.

2. Brand S will collect cruise information using Forest Service data forms. The information will be run on the Forest Service computer system. Brand S shall be furnished a copy of all input and output data and be able to review the results and check for any errors that would affect the volume. Any errors detected shall be corrected.

3. Cruising shall be by an acceptable method to the Forest Service and Brand S which will accomplish results in the most economical fashion. If small cutting units are employed on portions of the area they shall be combined using the payment unit concept for minimum unit sampling error. These units shall be agreed to by the Forest Service and Brand S at the time the cruise is designed.

ROADS

1. Road locations will be flagged with orange ribbon prior to field review.

F. PROJECT IMPLEMENTATION

Timber harvest and postsale activities will be completed within five (5) years after conveyance of the timber (by timber deed) to Brand S. Extensions of time shall only be granted for conditions beyond the control of either party such as extensive periods of moist soils or restrictions due to fire seasons. Brand S will annually develop a schedule of planned activities so that work can be coordinated and completed in a workmanlike manner.

Brand S will post a performance bond equal to 75% of the cost of post sale treatment needs. The Forest Service and Brand S agree that harvest prescriptions will be designed to achieve natural tree regeneration to the maximum extent possible. However, planting might be necessary to meet requirements for tree regeneration under the National Forest Management Act in some situations. The post harvest work will include an estimate of the direct cost of planting that might be necessary. The prescriptions agreed to at the conceptual stage will dictate the type of reforestation and necessary steps to achieve adequate regeneration to stock the harvest areas. Brand S will not be liable for any additional reforestation costs if the terms of the prescription are met. The bond can be reduced in proportion to, but not less than the amount of post sale work remaining to be completed. The amount based on reforestation needs shall be finalized with the results of the reforestation surveys conducted at the end of the 3rd growing season following site preparation.

Brand S will formally designate a field representative who will administer the project according to the preapproved conceptual plan.

The Deerlodge National Forest will formally designate a project coordinator who will monitor progress and compliance with the preapproved plan.

Project activities will progress in a workman-like manner as generally defined in the Annual Schedule of Planned Activities. Examples are:

1. A unit or group of units will be completed prior to beginning logging operations in unlogged units.

2. Erosion control measures will be accomplished immediately after the facility is no longer needed.

3. Required post harvest treatment (dozer pilling, trampling, site preparation and burning of landings and dozer piles) will be done on a unit within one season after logging has been completed.

The cost of fire suppression will be borne by Brand S when caused by their operations.

The Deerlodge National Forest shall be responsible for conducting reforestation surveys and implementing any artificial reforestation activities that might be necessary. However, Brand S shall have the option of doing any required artificial reforestation in lie of making deposits. They will use and pay for stock provided by the Deerlodge National Forest.

In the event that Brand S elects to offer for sale any of the timber conveyed in Part II, Brand S agrees to fully comply with existing Forest Service small business program procedures. Brand S will set minimum bid rates in accordance with Forest Service transaction evidence procedures. In the event that no qualified small business entity shall meet the minimum bid, Brand S shall have the right to offer said timber to large business.

Brand S and the Forest Service agree that conceptual designs and unit layout will avoid or mitigate impact to any known cultural resource or Threatened, Endangered or Sensitive species. In the event that new sites are discovered during operations and impacts cannot be mitigated by standard measures, then an equal volume of timber within the same market area will be provided to replace the affected timber. All rights, title and interest in and to any conveyed timber shall remain with the Forest Service until the timber designated for removal has been cut and removed form National Forest System lands. The Forest Service will not be liable for replacing any timber lost or destroyed due to Brand S's operations.

EXHIBIT C—DRAFT ACCESS RESOLUTION AGREEMENT—FOREST SERVICE AND BRAND-S/DIAMOND-B RANCH LAND EXCHANGE, GALLATIN NATIONAL FOREST

INTRODUCTION

In 1993, Brand-S/Diamond B Ranch (BS/DB) initiated a proposal to exchange National

Forest System (NFS) and private lands on the Gallatin and Deerlodge National Forest (FS). Brand-S developed ITS initial proposal to achieve two stated goals:

(1) Place ITS Lost Creek lands in public ownership.

(2) Secure a supply of timber by acquiring equal-valued NF timberlands within operating distance of the Brand-S mill in Livingston.

In the ensuing months, BS/DB staff met with staff of the two Forests, and with Bozeman/Livingston and Butte/Anaconda conservation and sportsman groups, the Governor's office, Montana Department of Fish Wildlife and Parks (MT FWP) and others to discuss the proposal. Through this process BS/DB gained some support, and also identified concerns about certain aspects of ITS proposal. In a series of meetings, FS and BS/DB staff made substantive modifications to develop a more workable exchange package that addresses the agency and public concerns.

THE ACCESS ISSUE

Within the proposal, BS/DB would acquire approx. 4,300 acres (seven parcels) of Gallatin NF lands in the Pole Gulch/Eightmile area on the west side of Yellowstone Valley. These public lands are intermixed with BS/DB Ranch lands.

This particular area of the Forest has no legal access from public roads to the NF boundary. Access is controlled by several private landowners, including BS/DB Ranch. In fact, no legal Forest access exists between West Pine Road on the north and Big Creek Road on the south, a distance of about 30 miles. The Gallatin Forest Plan contains direction to secure five public access facilities in this area (linking public roads to the Forest boundary in the north Dry Creek, Eightmile, Pole Gulch, Fridley, and south Dry Creek drainages). Once inside the Forest boundary, a network of system trails exists, facilitating travel to alternating sections of public lands.

Early on, and consistently throughout the exchange discussions, the FS informed BS/DB staff that to consider exchanging the identified NFS lands in the Pole Gulch/Eightmile area, the issue of public access to surrounding NFS lands must be addressed. The FS, MT FWP, Public Lands Access Association, Inc. (PLAAI) and local sportsman/wildlife groups recognize and agree that this proposal must not cause a loss or deterioration of public access in the Pole Gulch/Eightmile/Fridley area, particularly because existing access is so limited. An exchange that fails to protect access would be inconsistent with Forest Plan direction, and would also conflict with ongoing efforts to protect trail access across intermingled private lands in the Yellowstone Valley (e.g. Donahue Trail).

ACCESS RESOLUTION

In the exchange proposal, BS/DB would exchange four sections of land IT recently purchased in West Pine to the FS. This public acquisition would improve access in the West Pine area. However, until late July 1993, BS/DB and the FS were unable to reach agreement on resolution of access in the Eightmile/Pole Gulch/Fridley area. Several options were identified by the FS to help resolve this issue. BS/DB has been unwilling to accept any of these options. Without resolving this matter, the FS could not support the exchange proposal. Through discussions between BS/DB and the FS, agreement was reached on provisions to resolve access in the Eightmile/Pole Gulch/Fridley area, within the exchange package and ensuring legislation.

These provisions are as follows:

(1) Existing Trails and Roads: The FS has evaluated the existing NF trail system and road system on the NFS lands identified for exchange, and on the existing BS/DB lands in the Pole Gulch, and has identified:

(a) Those existing NF trails and roads that are needed for public access to adjoining NFS lands after the exchange.

(b) Those existing NF trails and roads that are no longer needed after the exchange.

The identified trails and roads to be reserved and those that are no longer needed are shown on the attached map. The identified trails and roads to be reserved are more specifically described in Part II of Land Exchange Specifications.

The FS will reserve in the patent the identified needed trail and road segments on the NFS lands to be exchanged to BS/DB. Minor relocation of trail and road segments will be considered where more logical locations exist, provided relocation is mutually acceptable to the FS and BS/DB.

The FS agrees:

(a) Not to reserve any rights in trails and roads identified as no longer needed on the NFS lands to be exchanged to BS/DB.

(b) To relinquish trails and roads identified as no longer needed BS/DB lands in Pole Gulch.

(2) Legislative Provision to Secure Access: Any exchange legislation must contain specific Congressional direction as follows:

The Forest Service shall secure legal public road accesses to Gallatin National Forest System lands in: 1) the Eightmile Creek area, and 2) the Miller Gulch-Fridley Creek-Dry Creek area.

The Forest Service and Brand-S/Diamond B agree that this provision shall be included in the legislation. It is anticipated that the Montana delegation, MT FWP, recreation and conservation groups will endorse this provision.●

● Mr. BURNS. Mr. President, I join my colleague from Montana in introducing the Lost Creek land exchange.

Early last year negotiations began on this delicate land exchange called the Lost Creek Exchange. The exchange involve lands in the Deer Lodge and Gallatin National Forests and privately owned lands. One particular piece of private land that will become publicly owned is the pristine Lost Creek area in the Anaconda Pintlers. This property was purchased for timber harvest, but immediately local citizens and conservation groups began looking for some avenue by which the public could acquire the land.

The result of this local grassroots effort, we have before us today. Our children and grandchildren will be the beneficiaries of this landmark exchange. We have just completed a series of public meetings to determine the level of support this exchange has across the affected areas and I was pleased to see universal support from conservation groups, sportsmen associations, private landowners and local communities. The acquisition of the prime big horn sheep and mountain goat habitat, plus the acquisition of key wilderness areas on the Gallatin National Forest are accomplishments that will benefit the State of Montana for future generations.

In addition, this exchange will mean the harvesting of timber by the Brand S lumber company in Livingston. And that's good news to the community where good family paying jobs are needed.

Legislative time is short, but I look forward to this bill moving forward and being sent to the President for his signature.●

By Ms. MOSELEY-BRAUN:

S. 2034. A bill to improve the quality of public elementary and secondary school libraries, media centers, and facilities in order to help meet the National Education Goals; to the Committee on Labor and Human Resources.

EDUCATIONAL INFRASTRUCTURE ACT OF 1994

Ms. MOSELEY-BRAUN. Mr. President, I rise today to introduce the Education Infrastructure Act of 1994, legislation designed to help local school districts finance the repair, renovation, alteration, and construction of public elementary and secondary school facilities.

The American system of public education has historically given local school boards primary responsibility for maintaining our Nation's education infrastructure.

For a long time, local school boards were able to meet that responsibility. They built the school buildings in America. However, the ability of local school boards to continue to meet that responsibility has steadily declined. As a result, our schools are aging. Thirty one percent of our nation's schools were constructed before world war II, and 43 percent during the fifties and sixties to augment the existing education infrastructure in order to meet baby boom needs.

Less than 25 percent of existing schools were built during the 1970's, the 1980's, and the 1990's.

To build schools, local school boards rely on local property taxes. And, as we all know, school boards in every State in the country are finding it increasingly difficult to support their academic programs, much less their school facilities, with local property taxes.

Mr. President, local property taxes are an inadequate source of funding for public education because they make the quality of public education dependent upon the local property wealth.

Two districts in Illinois illustrate the gross disparities created by our current school financing system.

In 1990, the owner of a $100,000 home in a prosperous community paid $2,103 in local property taxes. This community spent an average of $10,085 on its public school students. On the other hand, the owner of a $100,000 home in a low- and moderate-income community paid $4,139, almost twice as much, even though that community was able to spend only $3,483 on each of their pub-

lic schools students—less than one-third of the money the more prosperous community was spending.

In 1992, 57 percent of voters in Illinois voted to address the problems created by our system's reliance on local property taxes by directing the State to increase its share of public education funding.

The voters of Michigan also voted recently to shift funding for public education away from the local property taxes to more equitable sources of funding.

The Education Infrastructure Act would not infringe upon local control over public education in any way. Rather, this legislation is designed to help local school boards support the repair, renovation, alteration, and construction of our Nation's public elementary and secondary school facilities.

By providing assistance for the schoolhouses, we will assist local school boards in their efforts to fund badly needed instructional services inside the schoolhouse.

By providing an environment conducive to learning, we will help our children learn.

By providing this needed and long overdue support, we will begin to address our failure to adequately engage Federal resources in behalf of preparing our children for competition in this global economy and securing the future of our democratic institutions. This is in our children's interest; this is in our the national interest.

Mr. President, several recent studies have found that the problems facing our Nation's education infrastructure have reached crisis proportions.

In a recent survey of State educational agencies, the Education Writers Association found that our Nation's education infrastructure needs are about $125 billion: $84 billion for new construction and $41 billion for maintenance and repairs.

In fact, the EWA survey also reported that, while 42 percent of our Nation's school facilities are in good condition, 33 percent are only adequate, and 25 percent are shoddy places for learning.

More specifically, this survey found that 61 percent of our Nation's inadequate school facilities needed major repairs; 43 percent were obsolete; 42 percent were environmentally hazardous; 25 percent were overcrowded; and 13 percent were structurally unsound.

Other studies have shown that our Nation's education infrastructure is falling apart in both rural and urban school districts alike.

The Council of Great City Schools, for example, recently reported that New York City, Los Angeles, Detroit, and Chicago need more than $1 billion each to repair old school buildings and build new ones.

Several education researchers have also concluded that one-half of all rural school buildings in the United States are unsafe, inadequate, and inaccessible to disabled students.

In 1992, the Illinois State Board of Education found that its local school districts needed more than $542 million for repairs and over $468 million to meet State and Federal disability and energy conservation laws.

The Illinois State Board of Education also found that one-third of Illinois' public schools were over 50 years old.

Nonetheless, the Federal Government, as well as most States continue to force local school districts to rely increasingly on local property taxes for public education in general, and for school repair and construction projects in particular.

In Illinois, for example, the local share of public education funding increased from 48 percent during the 1980–81 school year to 58 percent during the 1992–93 school year, while the State's share, the larger pie, fell from 43 percent to 34 percent in the same period. At the same time, State support for repair, renovation, alteration, and construction of public school facilities has fallen even more dramatically in Illinois, one of at least 23 States, Mr. President, which provides little or no funding for school facilities projects.

Although the Illinois General Assembly created the Capital Assistance Program in the early 1970's to help local school districts finance school repair and construction projects, support for this program has diminished rapidly. During fiscal years 1985 through 1990, the State of Illinois only appropriated $18 million for local school repair and construction projects, and then only on an individual direct-grant basis.

In most cases, individual schools are finding it increasingly difficult to support routine maintenance and repairs within their tightening school budgets. In fact, the Council of Great City Schools reported in 1987 that the percentage of local school budgets devoted to building maintenance has steadily declined from 12.7 percent in 1939 to 3.3 percent in 1986. Again, that is in the context of an aging school facility sample.

Mr. President, in his book "Savage Inequalities," Jonathan Kozol used a series of interviews and personal observations to highlight the negative effects that inadequate school facilities have on our Nation's children. Mr. Kozol quoted in that book a 1989 St. Louis Post Dispatch story relating the following:

> The Martin Luther King Junior School in East St. Louis, Illinois was evacuated Friday afternoon after sewage flowed into the kitchen, the gym, and the parking lot.

Mr. Kozol then encourages his readers to see the school crisis through the eyes of a young girl who said:

> We have a school in East St. Louis named for Dr. King. The school is full of sewer water, and the doors are locked with chains. Every student in the school is black. It is like a terrible joke on history.

Mr. Kozol also quoted another student who was so frustrated with her school environment she stated:

> I don't go to physics class, because my lab has no equipment. I don't even use the toilets. If I do, I come back into class feeling dirty.

The Federal Government must accept a share of the blame in failing to provide students in East St. Louis and throughout this country with school environments which are conducive to learning.

In the last decade alone, the Federal Government's share of public education funding has dropped from 9.8 percent to 6.1 percent.

Yet, what most Americans do not know is that out of the $12.9 billion that we spent or invested in elementary and secondary education during the 1989–90 school year, only $12 million of that, or about one-one-thousandth of that amount, was devoted to our Nation's education infrastructure, and then only in school districts negatively impacted by Federal activities.

Nationwide, Federal support for elementary and secondary education was only 6.2 percent during the 1990–91 school year. What is compelling is that of that minuscule amount, only, again, one-one-thousandth of that amount goes to the facility, the environment in which learning is expected to take place. This hardly comports with our stated support for education.

In her research at Georgetown University, Maureen Edwards found that students in poor school facilities can be expected to fall 5.5 percentage points below those at schools in fair condition and 11 percentage points below those in schools in excellent condition. And so the learning environment is directly related to educational performance in school.

Mr. President, up to this point, the Federal Government has addressed the problems facing our Nation's public schools by passing currently unfunded Federal mandates, like section 504 of the Rehabilitation Act of 1973, the Asbestos Hazard Emergency Response Act of 1986, and the Americans With Disabilities Act of 1990. While these mandates have laudable goals, and I support them, they have the effect, as a practical matter, of passing on even greater unfunded costs to already overburdened school districts.

The Education Infrastructure Act of 1994 challenges Congress to take the first important step toward making elementary and secondary education the kind of financial priority that it should be.

This legislation would authorize the Secretary of Education to allocate $600 million directly to local school districts throughout this country for the repair, renovation, alteration, and construction of public elementary and sec-

ondary schools, school libraries, media centers, and facilities used for academic or vocational instruction.

The Secretary of Education would be authorized to distribute those funds to local school districts, including, by the way, those with large numbers of or percentages of disadvantaged students, which can demonstrate urgent repair, renovation, alteration, or construction needs. I underscore "urgent" because $600 million just begins to address this problem. More specifically, the Education Infrastructure Act would help local school districts: First, inspect their facility; second, repair the facilities that pose a health or safety risk to students; third, upgrade their facilities to accommodate new instructional technologies; fourth, install school security and communications systems; fifth, conserve energy; and sixth, build new schools to replace old ones that are most cost effectively torn down.

The bill would help local school districts meet important yet currently unfunded Federal mandates, including section 504 of the Rehabilitation Act of 1973, the Asbestos Hazard Emergency Response Act of 1986, and the Americans With Disabilities Act of 1990.

Mr. President, like most of my colleagues, I voted for the crime bill last year because it makes an important investment in the safety and security of our communities.

I firmly believe that if the Senate can make the tough choices necessary to invest $600 million in each of the next 5 years for the construction of regional prisons, we can—no, we must—work together in a bipartisan effort to begin making the necessary investments in our Nation's public schools.

The Corrections Yearbook estimated that the average cost of constructing a new maximum security prison was over $74,000 per prisoner in 1993, while, at the same time, the American School and University Magazine found that the average cost of constructing a new elementary, middle, or high school was less than $14,000 per student in 1993. We can clearly invest a little in schools to save a lot in jails. We can build classrooms instead of prison cells and enhance our society's return on its investment a thousand-fold.

Mr. President, these savings do not even take into account the savings in welfare, drug addiction, and crime programs created by investing in public schools as opposed to Federal prisons.

Nevertheless, I recognize the fact that some of my colleagues may not yet know that the problems facing our education infrastructure have reached crisis proportions. Therefore, I want to take this opportunity to show my colleagues some of the very disturbing pictures I have received of the current condition of our Nation's public schools.

The first picture is of a science lab, and I will not describe where the schools are. This is by way of demonstration, because we have demonstrative evidence from all over this country, and it is currently being collected. I hope, at some point, to be able to provide every Member of this Senate with specific information regarding the schools in their State. But this first picture is of a science lab in a high school. You will notice that there is no equipment, no electrical outlets, missing floor tiles, and it is in a general deteriorated condition.

Small wonder that you cannot do much scientific research or learning in an atmosphere like that.

The second picture is another science lab. This one again has no equipment, no electrical outlets, missing floor tiles, a generally deteriorated condition overall.

The third picture is the ceiling in a classroom. This is actually a classroom, Mr. President. Leaking water has knocked the plaster down, and it clearly poses a safety hazard for any youngster who thought he or she was going to learn anything in that environment.

The fourth picture, Mr. President, is a ceiling in a classroom in a high school. Here you see the lathing falling apart, the plaster gone, the wood lath half gone. This is a function of termites eating at plaster, and the school district did not have the money to provide for the reconstruction of this facility.

The fifth picture I have here is a portable classroom. You can remember particularly during the post-war years a number of school districts put up portable classrooms. This one is over 40 years old now. It is no longer obviously considered temporary. It was put up as a temporary classroom 40 years ago. It is no longer temporary. You see the lighting is such that it is almost impossible to learn or to read even in that environment.

The sixth picture is again another school classroom. Again the physical condition is falling apart. There is no money in this school district for new paint or, for that matter, even for new chairs.

This next picture, Mr. President, is again another safety hazard. This is exposed deteriorated electrical wiring in a high school. This is clearly a safety hazard and would require extensive and costly renovation that the school district is just not able to put together.

Picture 8 is a deteriorating school roof. This school was 115 years old, and the school roof is too expensive to replace with modern-day costs. So again this is another urgent renovation and repair or reconstruction need.

In this next picture, and everybody who has been at school lately will recognize the disgusting school bathroom, nonfunctioning drain pipes, no money to correct the drainage, problem graffiti on the walls. This is part and parcel of the school facility problem we are facing now.

The next picture is rusting lockers. This is a class of school that is decades old. These lockers are decades old, and there is no money to replace them. They do not lock. But again that is the condition of our schools today.

The eleventh picture is an outside stairwell, and this is a little hard to see. This is a stairwell in a high school. There are actually holes in the floor. The rust has eaten through to the risers, and this again is a safety hazard that has not yet been cured.

The next picture is an attic stairwell in an elementary school. Now the reason this looks like a junky stairwell is the fact this is a special education classroom, Mr. President. This is what the school board did to respond to our mandate that we provide educational opportunity to handicapped youngsters. This, it seems to me, is disgraceful, but this was what they were forced to do because of the lack of facilities.

The next picture here is one as we talk about our competition in the global economy. This is a school library, deteriorating book shelf in the school library, lack of adequate books. Most school library books, and this is reported by the American Libraries Association, are 25 years old. I daresay that in 25 years an awful lot has happened in the world that we want our youngsters to get in the course of an education.

The next picture is one of windows in a high school entrance. As you can see the lighting is terrible. There is no other lighting in the hallway, and these replacement windows have been there for years and they have not been replaced.

So I show these pictures, Mr. President, to make the point if it has not been made already how desperately and urgently needed investment in our school facilities has become.

Mr. President, I am one of the original cosponsors of the Goals 2000 legislation which we recently passed, which was a signal event and very important legislative initiative by this Congress. The Educate America Act was signed by President Clinton into law on March 31 of this year.

I support Goals 2000 because it promises to create a coherent national framework for education reform founded on the national education goals.

One essential building block of reform is better school facilities. I am pleased, therefore, that Goals 2000 included an amendment that directs the National Education Standards and Improvement Council to develop voluntary national opportunity-to-learn standards which address the condition of school facilities.

However, Mr. President, more needs to be done, and that is why the Education Infrastructure Act is so very necessary.

Local school boards need more than model standards in order to be able to provide their students with environments which are conducive to learning. Local school boards need Federal financial assistance to address the problems now facing our Nation's public school facilities.

This act, the Education Infrastructure Act, is endorsed by the national PTA, the National Education Association, the National Association of School Boards, the American Association of School Administrators, the Council of Great City Schools, the National Committee for Adequate School Housing, the City University of New York, the AFL-CIO Building and Trades Commission, the Military Impacted Schools Association, the American Library Association, the American Federation of Teachers, the National Association of Federal Education Program Administrators, ASPIRA, the Council of Education Facilities Planners International, and the American Federation of School Administrators.

As much to the point, Mr. President, a 1991 poll taken among America's high school students found that their No. 1 priority, one of their priorities—it was the No. 1 priority among high school students for investment—would be additional educational dollars invested in improved maintenance and construction of the schools. The young people know that school construction renovation and repair is vitally necessary and a long-neglected responsibility.

Mr. President, I would like to conclude my remarks by urging my colleagues to support the Education Infrastructure Act and ask for their support and assistance.

Again, I look forward to visiting with Members on the relative committees and with Members of this body to provide whatever information may be helpful with regard to the specifics in their State. But I submit to you, Mr. President, this is a national problem, this is a national crisis, and our national interest is involved in providing an atmosphere and environment in which our young people can learn.

Mr. President, I ask unanimous consent that a copy of the bill and a summary of its provisions be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2034

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Education Infrastructure Act of 1994".

SEC. 2. FINDINGS.

The Congress finds that—

(1) improving the quality of public elementary and secondary school libraries, media centers, and facilities will help our Nation meet the National Education Goals;

(2) Federal, State, and local funding for the repair, renovation, alteration and construction of public elementary and secondary school libraries, media centers, and facilities has not adequately reflected need; and

(3) the challenges facing our Nation's public elementary and secondary schools require the concerted and collaborative efforts of all levels of government and all sectors of the community.

SEC. 3. PURPOSE.

It is the purpose of this Act to help our Nation meet the National Education Goals through the repair, renovation, alteration and construction of public elementary and secondary school libraries, media centers, and facilities, used for academic or vocational instruction.

SEC. 4. DEFINITIONS.

For purposes of this Act—

(1) the term "alteration" refers to any change to an existing property for use for a different purpose or function;

(2) the term "construction" refers to the erection of a building, structure, or facility, including the concurrent installation of equipment, site preparation, associated roads, parking, and utilities, which provides area or cubage not previously available, including—

(A) freestanding structures, additional wings, or floors, enclosed courtyards or entryways, and any other means to provide usable program space that did not previously exist; and

(B) the complete replacement of an existing facility;

(3) the term "eligible local educational agency" means a local educational agency, as such term is defined in section 1471 of the Elementary and Secondary Education Act of 1965, which demonstrates in the application submitted under section 7 that such agency—

(A) has urgent repair, renovation, alteration and construction needs for its public elementary or secondary school libraries, media centers, and facilities, used for academic or vocational instruction; and

(B) serves large numbers or percentages of disadvantaged students;

(4) the term "renovation" refers to any change to an existing property to allow its more efficient use within such property's designated purpose;

(5) the term "repair" refers to the restoration of a failed or failing real property facility, component, or a building system to such a condition that such facility, component, or system may be used effectively for its designated purpose, if, due to the nature or extent of the deterioration or damage to such facility, component, or system, such deterioration or damage cannot be corrected through normal maintenance; and

(6) the term "Secretary", unless otherwise specified, means the Secretary of Education.

SEC. 5. IMPROVEMENT OF PUBLIC ELEMENTARY AND SECONDARY EDUCATION FACILITIES PROGRAM AUTHORIZED.

(a) PROGRAM AUTHORITY.—From amounts appropriated pursuant to the authority of subsection (b) in any fiscal year, the Secretary shall award grants to eligible local educational agencies having applications approved under section 6 to carry out the authorized activities described in section 7.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are to be appropriated $600,000,000 for fiscal year 1995, and such sums as may be necessary for each of the fiscal years 1996 through 2004, to carry out this Act.

SEC. 6. APPLICATIONS.

Each eligible local educational agency desiring to receive a grant under this Act shall submit an application to the Secretary. Each such application shall—

(1) contain an assurance that such application was developed in consultation with parents and classroom teachers; and

(2) include—

(A) a description of each architectural, civil, structural, mechanical, electrical, or telephone line, deficiency to be corrected with funds provided under this Act, including the priority for the repair of the deficiency;

(B) a description of the corrective action to be supported with funds provided under this Act;

(C) a cost estimate of the proposed corrective action;

(D) an identification of the total amount and percentage of such agency's budget used in the preceding fiscal year for the maintenance, repair, renovation, alteration, and construction of public elementary and secondary school libraries, media centers, and facilities;

(E) a description of how such agency plans to maintain the repair, renovation, alteration, or construction supported with funds provided under this Act;

(F) a description of the extent to which the repair, renovation, alteration, or construction will help the Secretary meet the goals described in section 9(1)(A); and

(G) such other information as the Secretary may reasonably require.

SEC. 7. AUTHORIZED ACTIVITIES.

Each eligible local educational agency receiving a grant under this Act shall use such grant funds to help our Nation meet the National Education Goals through the repair, renovation, alteration, and construction of a public elementary or secondary school library, media center, or facility, used for academic or vocational instruction, including—

(1) inspection of such library, center, or facility;

(2) repairing such library, center, or facility that poses a health or safety risk to students;

(3) upgrading of and alteration to such library, center, or facility in order to accommodate new instructional technology;

(4) meeting the requirements of section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990;

(5) removal or containment of severely hazardous material such as asbestos, lead, and radon using a cost-effective method;

(6) installation or upgrading of school security and communications systems;

(7) energy conservation;

(8) meeting Federal, State, or local codes related to fire, air, light, noise, waste disposal, building height, or other codes passed since the initial construction of such library, center, or facility; and

(9) replacing an old such library, center, or facility that is most cost-effectively torn down rather than renovated.

SEC. 8. REQUIREMENTS.

(a) SPECIAL RULES.—

(1) MAINTENANCE OF EFFORT.—An eligible local educational agency may receive a grant under this Act for any fiscal year only if the Secretary finds that either the combined fiscal effort per student or the aggregate expenditures of that agency and the State with respect to the provision of free public education by such local educational agency for the preceding fiscal year was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the fiscal year for which the determination is made.

(2) SUPPLEMENT NOT SUPPLANT.—An eligible local educational agency shall use funds re-

ceived under this Act only to supplement the amount of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the repair and construction of school facilities used for educational purposes, and not to supplant such funds.

(b) GENERAL LIMITATIONS.—

(1) REAL PROPERTY.—No part of any grant funds under this Act shall be used for the acquisition of any interest in real property.

(2) MAINTENANCE.—Nothing in this Act shall be construed to authorize the payment of maintenance costs in connection with any projects constructed in whole or in part with Federal funds provided under this Act.

(3) ENVIRONMENTAL SAFEGUARDS.—All projects carried out with Federal funds provided under this Act shall comply with all relevant Federal, State, and local environmental laws and regulations.

(4) APPLICABILITY OF LAWS REGARDING INDIVIDUALS WITH DISABILITIES.—Sections 504 and 505 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 shall apply to projects carried out with Federal funds provided under this Act.

SEC. 9. CONTRACTS.

If a project assisted under this Act will be carried out pursuant to a contract, the following limitations shall apply:

(1) MINORITY PARTICIPATION.—The Secretary shall establish—

(A) goals for the participation of small business concerns as contractors or subcontractors that meet or exceed the governmentwide goals established pursuant to section 15(g)(1) of the Small Business Act (15 U.S.C. 644(g)(1)) for the participation of such concerns in contracts supported with funds under this Act (and subcontracts under such contracts); and

(B) an evaluation process for such participation that gives significant weight to the goals described in subparagraph (A).

(2) DAVIS-BACON.—All laborers and mechanics employed by contractors or subcontractors in the performance of any contract and subcontract for the repair, renovation, alteration, or construction, including painting and decorating, of any building or work that is financed in whole or in part by a grant under this Act, shall be paid wages not less than those determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (commonly known as the Davis-Bacon Act); as amended (40 U.S.C. 276a–276a–5). The Secretary of Labor shall have the authority and functions set forth in reorganization plan of No. 14 of 1950 (15 FR 3176; 64 Stat. 1267) and section 2 of the Act of June 1, 1934 (commonly known as the Copeland Anti-Kickback Act) as amended (40 U.S.C. 276c, 48 Stat. 948).

SEC. 10. TECHNICAL ASSISTANCE.

The comprehensive regional centers established under section 2203 of the Elementary and Secondary Education Act of 1965 may provide assistance in the repair, renovation, alteration, and construction of public elementary or secondary school libraries, media centers, or facilities to eligible local educational agencies receiving assistance under this Act.

SEC. 11. FEDERAL ASSESSMENT.

The Secretary shall reserve not more than 1 percent of funds appropriated pursuant to the authority of section 5(b)—

(1) to collect such data as the Secretary determines necessary at the school, local, and State levels; and

(2) to conduct studies and evaluations, including national studies and evaluations, in order to—

(A) monitor the progress of projects supported with funds provided under this Act; and

(B) evaluate the state of American public elementary and secondary school libraries, media centers, and facilities; and

(3) to report to the Congress by July 1, 1997, regarding the findings of the studies and evaluations described in paragraph (2).

SECTION-BY-SECTION ANALYSIS

SECTION 1

Short title: "The Education Infrastructure Act of 1994."

SECTION 2

Congressional findings.

SECTION 3

Purpose: "To help our nation meet the national education goals through the repair, renovation, alteration, and construction of public elementary and secondary school libraries, media centers, and facilities used for academic or vocational instruction".

SECTION 4

Definitions:

Alteration: Any change to an existing property for use for a different purpose or functions.

Construction: the erection of a building structure, or facility, including the concurrent installation of equipment, site preparation, associated roads, parking and utilities, which provides area or cubage not previously available, including—

(A) freestanding structures, additional wings, or floors, enclosed courtyards, or entryways, and any other means to provide usable program space that did not previously exist; and

(B) the complete replacement if an existing facility;

Eligible Local Educational Agency: a local educational agency, as such term is defined in section 1471 of the Elementary and Secondary Education Act of 1965, which demonstrates in the application submitted under section 7 that such agency—

(A) has urgent repair, renovation, alteration and construction needs for its public elementary or secondary school libraries, media centers, and facilities, used for academic or vocational instruction; and

(B) serves large numbers or percentages of disadvantaged students;

Renovation: any change to an existing property to allow its more efficient use within such property's designated purposes;

Repair: the restoration of a failed or failing real property facility, component, or a building system to such a condition that such facility, component, or system may be used effectively for its designated purpose, if, due to the nature or extent of the deterioration or damage cannot be corrected through normal maintenance; and

Secretary: the Secretary of Education.

SECTION 5

Authorization: $600,000,000 in fiscal year 1995 and such sums as may be necessary in fiscal years 1996 through 2004 to carry out the purpose of this act.

SECTION 6

Applciations: Each eligible local educational agency desiring to receive a grant under this Act shall submit an application to the Secretary. Each such application shall—

(1) contain an assurance that such application was developed in consultation with parents and classroom teachers; and

(2) include:

(A) a description of each architectural, civil, structural, mechanical, electrical, or telephone line deficiency to be corrected with funds under this Act, including the priority for the repair of the deficiency;

(B) a description of the corrective action to be supported with funds under this Act;

(C) a cost estimate of the proposed corrective action;

(D) an identification of the total amount and percentage of such agency's budget used in the preceding fiscal year for the maintenance, repair, renovation, alteration, and construction of public elementary and secondary school libraries, media centers, and facilities;

(E) a description of how such agency plans to maintain the repair, renovation, alteration, or construction supported with funds under this Act;

(F) a description of the extent to which the repair, renovation, alteration, or construction will help the Secretary meet the goals described in section 9(1)(A); and

(G) such other information as the Secretary may reasonably require.

SECTION 7

Authorized Activities: Each eligible local educational agency receiving a grant under this Act shall use such grant funds to help our Nation meet the National Education Goals through the repair, renovation, alteration, and construction of a public elementary or secondary school library, media center, or facility, used for academic or vocational instruction, including—

(1) inspection of such library, center, or facility:

(2) repairing such library, center, or facility that poses a health or safety risk to student;

(3) upgrading of and alterations to such library, center, or facility, to accommodate new instructional technology;

(4) meeting the requirements of Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act;

(5) removal or containment of severely hazardous material such as asbestos, lead, and radon using a cost effective method;

(6) installation or upgrading of school security and communications systems;

(7) energy conservation;

(8) meeting local, state of federal codes related to fire, air, light, noise waste disposal, building height, or other codes passed since the initial construction of the library, center, or facility; and

(9) replacing an old such library, center, or facility that is most cost-effectively torn down rather than renovated".

SECTION 8

Requirements.

SECTION 9

Contracts.

SECTION 10

Technical Assistance: "The comprehensive regional centers established under section 2203 of the Elementary and Secondary Education Act of 1965 may provide assistance in the repair, renovation, alteration, and construction of public elementary or secondary school libraries, media centers, or facilities to eligible local educational agencies receiving assistance under this Act.

SECTION 11

Federal Assessment: The Secretary shall reserve not more than 1 percent of funds appropriated pursuant to the authority of section 5(b)—

(1) to collect such data as the Secretary determines necessary at the school, local, and State levels; and

(2) to conduct studies and evaluations, including national studies and evaluations, in order to—

(A) monitor the progress of projects supported with funds under this Act;

(B) evaluate the state of American public elementary and secondary school libraries, media centers, and facilities; and

(3) to report to Congress by July 1, 1997, regarding the findings of the studies and evaluations described in paragraph (2).

By Mr. BUMPERS:

S. 2035. A bill to withdraw certain lands located in the Mark Twain National Forest from the mining and mineral leasing laws of the United States, and for other purposes; to the Committee on Energy and Natural Resources.

OZARK RIVERS PROTECTION ACT OF 1994

• Mr. BUMPERS. Mr. President, I rise today to introduce the Ozark Rivers Protection Act of 1994. This legislation will withdraw certain lands within the Mark Twain National Forest from the mining and mineral leasing laws of the United States in order to protect several environmentally sensitive waterways located near the forest and the area's drinking water supply.

The Eleven Point River, located within the 3-million-acre Mark Twain National Forest in Missouri, is one of the eight original Wild and Scenic Rivers designated by Congress in 1968. The Eleven Point River is part of the habitat of the federally endangered bald eagle and State endangered Swainson's Warbler, while nearby caves harbor two federally endangered bat species—Gray and Indiana. The natural and recreational opportunities attract 4 million visitors annually to this wild area. American Rivers recently designated the Eleven Point River as one of the 20 most threatened rivers in the country due to the potential of lead mining in the Eleven Point District of the Mark Twain National Forest.

In addition, the Current and Jacks Fork Rivers in the area make up the Ozark National Scenic Riverways, which were the first National Rivers designated by Congress in 1964. The National Park Service, which oversees the Ozark National Scenic Riverways, has called for the prohibition of mining in the Eleven Point District because of the high likelihood mining activity in the area would have of contaminating the Ozark Scenic Riverways.

In 1992, the Bureau of Land Management authorized the Doe Run Co. to perform exploratory drilling in the Eleven Point District of the Mark Twain Forest to determine the extent of lead deposits located in the forest. If sufficient deposits are found, Doe Run will undoubtedly seek permission to mine in the area, which is located 1.5 miles from the Eleven Point River and within the subsurface watershed of the Ozark National Scenic Riverways. There is great potential damage for these nationally recognized watersheds if mining is permitted to occur. The karst terrain of the underlying rock is characterized by easily dissolved bedrock, numerous springs, caves, losing streams, and sink holes. The nature of the area makes it impossible to contain mining or milling effluents on the surface or subsurface. In addition, the aquifer located beneath the forest is the primary source of water for 20,000 residents in southeast Missouri and northeast Arkansas. In order to mine any lead located in the area, Doe Run would have to bore through two area aquifers.

Mr. President, I am sure there is no need to extensively address the long litany of health problems associated with lead. According to the American Academy of Pediatrics, between 2 and 4 million American children have sufficient lead in their blood to diminish their IQ, reduce physical stature, damage hearing, decrease hand-eye coordination and impair their ability to pay attention in school. The Department of Health and Human Services has called lead poisoning "the most important environmental health problem facing young children." We must act to prevent the water supply in northeast Arkansas and southeast Missouri from being contaminated with lead, thereby threatening our children.

The Ozark Rivers Protection Act would prohibit mining in the Eleven Point District of the Mark Twain National Forest from the application of the mining and mineral leasing laws. This legislation does nothing more than protect an especially environmentally sensitive area. Given the fact that the Bureau of Mines estimates that we currently have a 60-year supply of lead, it would not impact our national security interests. I urge my colleagues to support the bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2035

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Ozark Rivers Protection Act of 1994."

SEC. 2. WITHDRAWAL OF LANDS WITHIN MARK TWAIN NATIONAL FOREST.

Subject to valid existing rights, after the date of enactment of this Act, all federal lands within the Eleven Point District of the Mark Twain National Forest are withdrawn from entry, location, or patent under the general mining laws, the operation of the mineral and geothermal leasing laws and the mineral material disposal laws.•

By Mr. MCCAIN (for himself and Mr. INOUYE):

S. 2036. A bill to specify the terms of contracts entered into by the United States and Indian tribal organizations under the Indian Self-Determination and Education Assistance Act, and for other purposes; to the Committee on Indian Affairs.

INDIAN SELF-DETERMINATION CONTRACT REFORM ACT OF 1994

Mr. MCCAIN. Mr. President, today I am introducing the Indian Self-Determination Contract Reform Act of 1994. I am pleased that Senator INOUYE, the chairman of the Committee on Indian Affairs, has joined with me as a cosponsor of this legislation.

I am introducing this bill to stimulate discussion and debate about the implementation of the Indian Self-Determination and Education Assistance Act. This legislation would prohibit the Secretary of the Interior and the Secretary of Health and Human Services from promulgating regulations under the Self-Determination Act. It prescribes the terms and conditions which must be used in any contract between an Indian tribe and the Bureau of Indian Affairs [BIA] or the Indian Health Service [IHS]. No modifications could be made to any contract which is entered into under the authority of the Self-Determination Act without the written consent of the Secretary and the tribe.

The policy of self-determination has proven to be very successful in terms of promoting tribal operation of Federal programs and services administered by the BIA and IHS. The policy has its origins in President Nixon's 1970 "Special Message to the Congress on Indian Affairs" which stated:

> For years we have talked about encouraging Indians to exercise greater self-determination, but our progress has never been commensurate with our promises. Part of the reason for this situation has been the threat of termination. But another reason is the fact that when a decision is made as to whether a Federal program will be turned over to Indian administration, it is the federal authorities and not the Indian people who finally make the decision.
>
> This situation should be reversed. In my judgment, it should be up to the Indian tribe to determine whether it is willing to assume administrative responsibility for a service program which is presently administered by a federal agency.

In response to President Nixon, the Congress passed the Indian Self-Determination and Education Assistance Act in 1974 and it was signed into law by President Ford on January 4, 1975. Major amendments were enacted in 1988 in an effort to improve the implementation of the Act. Today, approximately $531 million of the funds appropriated to the BIA are administered by tribal governments under self-determination contracts. There are over 400 contracts between Indian tribes and the IHS involving about $497 million annually. Indian tribes contract with the IHS for the operation of 8 fully accredited hospitals, 347 health centers, and 70 service units.

Despite these successes, the implementation of the act has consistently been plagued by an oppressive Federal bureaucracy. During the consideration of the 1988 amendments, the Senate Committee on Indian Affairs noted

that the act had failed to meet its goal of reducing the Federal bureaucracy and ending the Federal domination of Indian programs. In fact, there had been no reduction in the Federal bureaucracy. Instead the act had spawned an increase in Federal officials who were employed to monitor self-determination contracts. The Committee found that Federal bureaucrats had imposed administrative and reporting requirements on Indian tribes which were more stringent than the standards which would apply to direct Federal operation of the programs, activities, and services that the tribes were contracting to provide under the act. So many layers of bureaucracy and rules had been imposed that the contract approval process required an average of 6 months rather than the 60 days mandated by the act.

The committee found that the original goal of ensuring maximum tribal participation in the planning and administration of Federal services, programs and activities intended for the benefit of Indians had been undermined by excessive bureaucracy and unnecessary contract requirements. The 1988 amendments were intended to "* * * remove many of the administrative and practical barriers that seem to persist * * * under the act. The amendments required new regulations to be developed by BIA and IHS with the participation of Indian tribes. Senate Report 100–274, which accompanied the amendments, stated:

> The regulations regarding contracts under the Indian Self-Determination Act should be relatively simple, straightforward, and free of unnecessary requirements or procedures. The Committee intends * * * [the] regulations to become effective prior to the beginning of the first Fiscal Year following enactment of this amendment.

Mr. President, it has now been nearly 6 years since the 1988 amendments were enacted. During those years there have been at least three oversight hearings to determine why the required regulations had not been developed and implemented. On January 20, 1994, the BIA and IHS finally published proposed regulations in the Federal Register. Despite the fact that the regulations were supposed to be relatively simple, straightforward, and free of unnecessary requirements or procedures, the new regulations are 83 pages long and contain hundreds of new requirements. As one commentator noted: "* * * in numerous instances the proposed regulations are more restrictive than existing regulations and raise new obstacles and burdens for Indian tribes seeking the opportunities for effective tribal self-government promised by the act."

I find the conduct of the BIA and the IHS to be outrageous. The Congress passed and the President signed a law calling for exactly the opposite result. In addition, this administration like its predecessor, is committed to reducing Federal regulatory burdens. I can think of no better place to start to reduce the crippling effect of regulations than in the area of Indian self-determination. It is time that the BIA and IHS get the message. Self-determination is not simply another Federal program and it is not an excuse for Federal officials to continue seeking domination over the affairs of tribal governments. In this instance, the BIA and the IHS suffer from the delusion that tribal programs can only be operated in the way that the BIA or IHS have operated them. To the contrary, self-determination requires a diminishment of the Federal presence in tribal affairs. This includes reducing the Federal work force and minimizing regulatory interference. Since the BIA and IHS seem unable or unwilling to accomplish these goals, I believe it has become necessary to repeal their authority to promulgate regulations under the Self-Determination Act.

It is entirely possible that regulations will be required in certain areas to effectuate the purposes of the act. However, the burden of proof should be on the Federal agencies or any other interested party to justify to the Congress and to the tribes the need for such regulations. In any case, I believe self-determination regulations should be kept to a minimum.

When the Committee on Indian Affairs conducted hearings on this legislation, I invite the Federal agencies and other interested parties to identify any provisions in the recently proposed regulations which are necessary to effectuate the purposes of the act. In addition, I invite the BIA and IHS to document the personnel reductions which have occurred since 1975 as the act has been implemented. I am hopeful that this legislation will finally lead to full compliance with the letter and spirit of the Indian Self-Determination and Education Assistance Act.

I ask unanimous consent that the bill and a section-by-section summary be printed in the RECORD immediately following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2036

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Self-Determination Contract Reform Act of 1994".

SEC. 2 CONTRACT SPECIFICATIONS.

Section 105 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450j) is amended to read as follows:

"SEC. 105. CONTRACT OR GRANT SPECIFICATIONS.

"Each contract or grant entered into under this Act, except an agreement entered into pursuant to title III (25 U.S.C. 450f note), shall contain, or incorporate by reference, the following provisions, with modifications where indicated and the blanks appropriately filled:

"(a) AUTHORITY AND PURPOSE.—

"(1) AUTHORITY.—This agreement, denoted a Contract of Self-Determination (hereinafter referred to as the 'Contract'), is entered into by the Secretary of the Interior (or the Secretary of Health and Human Services) (hereinafter referred to as the 'Secretary'), for and on behalf of the United States pursuant to the Indian Self-Determination and Education Assistance Act and by the authority of the tribal government. Unless otherwise provided in this agreement, all of the provisions of the Indian Self-Determination and Education Assistance Act are incorporated herein.

(2) PURPOSE.—This Contract shall be liberally construed to transfer the funding, functions, and activities for the following programs from the Federal Government to the tribal government: [List functions, activities, and programs.]

"(3) TRIBAL LAW AND FORUMS.—The laws of the tribal government shall be applied in the execution of this Contract and the powers and decisions of the Tribal Court shall be respected to the extent that Federal law, construed in accordance with the applicable canons of construction and the Indian Self-Determination and Education Assistance Act, is not inconsistent.

"(b) TERMS, PROVISIONS AND CONDITIONS.—

"(1) TERM.—The term of this Contract shall not exceed 3 years, unless the Secretary and the tribe agree on a longer period pursuant to section 106 of the Indian Self-Determination and Education Assistance Act. The calendar year is the basis for contracts under this Act, unless the Secretary and the tribe agree on a different period.

"(2) EFFECTIVE DATE.—This Contract shall become effective upon approval and execution by the tribe and the Secretary, unless otherwise provided by law.

"(3) FUNDING AMOUNT.—Subject to the appropriation of funds by Congress, the Secretary shall make available to the tribe the total amount specified in the annual agreement incorporated by reference in subsection (f)(2).

"(4) PAYMENT.—

"(A) IN GENERAL.—Payments shall be made as expeditiously as possible in compliance with applicable Treasury Department regulations and shall include financial arrangements to cover funding during periods under continuing resolutions to the extent permitted by such resolutions.

"(B) QUARTERLY PAYMENTS.—To the extent authorized by law, for each fiscal year covered by this Contract, the Secretary shall make available the funds specified for the fiscal year under the annual agreement by paying to the tribe on a quarterly basis one-quarter of the total amount provided for in the annual agreement for that fiscal year, or by using an instrument such as a letter of credit, or other method authorized by law, as may be specified in the annual agreement. To the extent applicable, each quarterly payment shall be made on the first day of each quarter of the fiscal year except for the first quarter, for which the quarterly payment shall be made not later than the date that is 10 calendar days after the date on which the Office of Management and Budget apportions the appropriations for the fiscal year for the programs, services, function, and activities subject to the Contract.

"(5) RECORDS.—(A) Except for previously provided copies of tribal records that the Secretary demonstrates are clearly required to be maintained as part of the record-keeping system of the Department of the Interior, tribal records shall not be considered

Federal records for purposes of chapter 5 of title 5, United States Code.

"(B) The tribe shall maintain a record-keeping system, and provide reasonable access to records to the Secretary that permits the Department of the Interior to meet its minimum legal recordkeeping program requirements under chapter 31 of title 44, United States Code.

"(6) PROPERTY.—(A) At the request of the tribe, the Secretary shall make available to the tribe reasonably divisible real property, facilities, equipment, and personal property that the Department had previously utilized to provide the programs, services, functions, and activities now consolidated by the tribe pursuant to subsection (c)(1) of this Contract. A mutually agreed upon list specifying the property, facilities, and equipment so made available shall also be prepared and periodically revised.

"(B) Subject to the agreement of the General Services Administration, the Secretary shall delegate to the tribe the authority to acquire such 'excess' property as may be appropriate in the judgment of the tribe to support the programs, services, functions, and activities consolidated under subsection (c)(1) of this Contract. The Secretary agrees to make best efforts to assist the tribe in obtaining such confiscated or excess property as may become available to tribes or local governments. Subject to the agreement of the General Services Administration, a screener identification card (General Services Administration form 2946) shall be issued to the tribe not later than the effective date of this Contract. The designated official shall, upon request, assist the tribe in securing the use of the card.

"(C) The tribe shall, upon acquisition of excess United States Government property, provide adequate documentation to the Secretary to facilitate recordation of the property in the Bureau of Indian Affairs Property Inventory.

"(D) The tribe shall determine what capital equipment, leases, rentals, property, or services it shall require to perform its obligations under this subsection, and shall acquire and maintain records of such capital equipment, property rentals, leases, property, or services through tribal procurement procedures.

"(7) SAVINGS.—Notwithstanding any other provision of law, any funds appropriated pursuant to the Act of November 2, 1921 (42 Stat. 208, chapter 115; 25 U.S.C. 13) shall remain available until expended.

"(8) TRANSPORTATION.—

"(A) USE OF MOTOR VEHICLES.—Subject to the agreement of the General Services Administration, the Secretary hereby authorizes the tribe to obtain interagency motor pool vehicles and related services, if available, for performance of any activities under this Contract.

"(B) USE OF OTHER TRANSPORTATION SERVICES.—The Secretary shall make best efforts to obtain the concurrence of the General Services Administration to provide the tribe and its employees with eligibility for services and supplies pursuant to General Services Administration programs and contracts with private entities, including airlines and other transportation carriers.

"(9) REGULATORY AUTHORITY.—The tribe is not required to abide by Federal program guidelines, manuals, or policy directives unless otherwise agreed to by the tribe and the Secretary.

"(10) DISPUTES.—(A) Obligations of the United States under this Contract shall be considered to be 'duties' under section 110 of the Indian Self-Determination and Education Assistance Act.

"(B) Section 110 of the Indian Self-Determination and Education Act shall apply to disputes under this Contract.

"(C) In addition or as an alternative to remedies and procedures prescribed by section 110 of the Indian Self-Determination and Education Assistance Act the parties may jointly—

"(i) submit disputes under this Contract to third-party mediation, which for purposes of this section means that the Secretary and the tribe nominate a third party who together choose a third party mediator ('third-party' means a person not employed by a significantly involved with either the tribe, the Secretary, or the Department of the Interior);

"(ii) submit the dispute to the Court of the tribe; or

"(iii) submit the dispute to mediation processes provided for under the law of the tribe.

"(D) The Secretary shall accept decisions reached by mediation processes or the tribal court, but shall not be bound by an decision that might be in conflict with the interests of the Indians or the United States.

"(11) TRIBAL ADMINISTRATIVE PROCEDURES.—Tribal law and tribal forums shall provide for administrative due process with respect to programs, services, functions, and activities that are provided by the tribe pursuant to this Contract and pursuant to the Indian Civil Rights Act of 1968 (25 U.S.C. 1301 et seq.).

"(12) SUCCESSOR ANNUAL AGREEMENT.—Negotiations for a successor annual agreement, as provided for in subsection (f)(2), shall begin not later than 120 days prior to the conclusion of the preceding annual agreement. The tribe is hereby assured that future funding of successor annual agreements shall only be reduced pursuant to section 106(b) of the Indian Self-Determination and Education Assistance Act. The Secretary agrees to prepare and supply relevant information, and to promptly comply with any request by the tribe for information reasonably needed to determine the funds that may be available for a successor annual agreement as provided for in subsection (f)(2) of this Contract.

"(13) SECRETARIAL APPROVAL.—(A) Except as provided in subparagraph (B), for the term of the Contract, section 2103 of the Revised Statutes (25 U.S.C. 81) and section 16 of the Act of June 18, 1934 (25 U.S.C. 476), shall not apply to any contract entered into by the tribe in connection with this Contract.

"(B) Each contract entered into by the tribe shall—

"(i) be in writing;

"(ii) identify the interested parties, their authorities, and purposes;

"(iii) state the work to be performed; and

"(iv) state the basis for any claim, the payments to be made, and the terms of the contract, which shall be fixed.

"(c) OBLIGATION OF THE TRIBE.—

"(1) CONSOLIDATION.—Except as provided in subsection (d)(2), the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801 et seq.), and title XI of the Education Amendments of 1978 (25 U.S.C. 2001 et seq.), the tribe shall perform the programs, services, functions, and activities as provided in the annual agreement under subsection (f)(2) of this Contract.

"(2) AMOUNT OF FUNDS.—The total amount of funds covered by the Contract provided for in paragraph (1) that the Secretary shall make available to the Indian tribe shall be determined in an annual agreement between the Secretary and the tribe, which shall be incorporated in its entirety into this Contract and attached as provided in subsection (f)(2).

"(3) TRIBAL PROGRAMS.—The tribe agrees to provide the programs, services, functions, and activities identified in the annual agreement. The tribe pledges to practice good faith in upholding its responsibility to provide such programs, services, functions, and activities.

"(4) TRUST SERVICES FOR INDIVIDUAL INDIANS.—To the extent that the annual agreement endeavors to provide trust services to individual Indians that were formerly provided by the Secretary, the tribe shall maintain at least the same level of service as was previously provided by the Secretary, subject to the availability of appropriated funds for such services. The tribe pledges to practice good faith in upholding its responsibility to provide such service. Trust services for individual Indians means only services that pertain to land or financial management connected to individually held allotments.

"(d) OBLIGATION OF THE UNITED STATES.—

"(1) TRUST RESPONSIBILITY.—The United States reaffirms its trust responsibility to the Indian tribe of the Indian Reservation to protect and conserve the trust resources of the Indian tribe and of individual Indians of the Indian Reservation. Nothing in this Contract is intended to, nor shall be construed, to terminate, waive, modify, or reduce the trust responsibility of the United States to the tribe or individual Indians. The Secretary pledges to practice good faith in upholding said trust responsibility.

"(2) PROGRAMS RETAINED.—As specified in the annual agreement, the United States hereby retains the programs, services, functions, and activities with respect to the tribe that are not specially assumed by the tribe in the annual agreement.

"(e) OTHER PROVISIONS.—

"(1) DESIGNATED OFFICIALS.—On or before the effective date of this Contract, both the United States and the tribe shall provide each other with a written designation of a senior official as its representative for notices, proposed amendments to the Contract and other purposes for this Contract.

"(2) INDIAN PREFERENCE IN EMPLOYMENT, CONTRACTING, AND SUBCONTRACTING.—Tribal law shall govern the provision of Indian preference in employment, contracting, and subcontracting pursuant to this Contract. Section 5 of the Indian Self-Determination and Education Assistance Act shall apply to individuals who leave Federal employment for tribal employment pursuant to this contract.

"(3) CONTRACT MODIFICATIONS OR AMENDMENTS.—To be effective any modifications of this Contract shall be in the form of a written amendment to the Contract, and shall require the written consent of the tribe and the Secretary.

"(4) OFFICIALS NOT TO BENEFIT.—No Member of Congress, or resident commissioner, shall be admitted to any share or part of any contract executed pursuant to this Contract, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to any contract under this contract if made with a corporation for its general benefit.

"(5) COVENANT AGAINST CONTINGENT FEES.—The parties warrant that no person or selling agency has been employed or retained to solicit or secure any contract executed pursuant to this Contract upon an agreement or understand for a commission, percentage,

brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the contractor for the purpose of securing business. For breach or violation of this warranty the Government shall have the right to annul any contract without liability or, in its discretion, to deduct from the Contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

"(f) ATTACHMENTS.—

"(1) APPROVAL OF CONTRACT.—The resolution of the Indian tribe approving this Contract is attached hereto as attachment 1.

"(2) ANNUAL AGREEMENT.—The negotiated and duly approved annual agreement with respect to the Indian tribe which shall only contain terms that identify the programs, services, functions, and activities to be performed, the general budget category assigned, the funds to be provided, the time and method of payment, and a requirement that all modifications or amendments shall be written and signed by both parties, is hereby incorporated in its entirety in this Contract and attached hereto as attachment 2.".

SEC. 3. REGULATIONS.

(a) IN GENERAL.—The Secretary of the Interior and the Secretary of Health and Human Services shall not promulgate any regulation relating to grants, contracts, or cooperative agreements entered into pursuant to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

(b) EXISTING REGULATIONS.—The provisions of this Act shall supersede any conflicting provisions of law or regulation in existence on the date of enactment of this Act.

SEC. 4. REPEAL.

(A) IN GENERAL.—Section 107 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450k) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 104(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450h(b)) is amended by striking ", in accordance with regulations adopted pursuant to section 107,".

(2) Section 106(h) of such Act (25 U.S.C. 450j(h)) is amended by striking "and the rules and regulations adopted by the Secretaries of the Interior and Health and Human Services pursuant to section 107".

SECTION-BY-SECTION SUMMARY

Section 1. Short Title. This section provides that the Act may be cited as the "Indian Self-Determination Contract Reform Act of 1994".

Section 2. Contract Specifications. This Section amends section 105 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450j) to require every grant or contract, except self-governance compacts, entered into under the Act to contain the following provisions:

(a)(1) Authority. This subsection provides that the contract is entered into pursuant to the Indian Self-Determination and Education Assistance Act and incorporates all of the provisions of that Act.

(a)(2) Purpose. This subsection provides that the contract shall be liberally construed to transfer funding, functions and activities for specific federal programs from the Federal government to a tribal government.

(a)(3) Tribal Law and Forums. This subsection provides that tribal law shall be applied to the execution of the contract to the extent that such law is not inconsistent with Federal law.

(b)(1) Term. This subsection limits the term of the contract to three years unless the provisions of section 106 of the Act are applicable and the Secretary and the Indian tribe agree to a longer term. This subsection also provides that the basis for the contract is the calendar year unless the Secretary and the tribe agree to a different period.

(b)(2) Effective Date. This subsection provides that the contract shall become effective upon its execution by the parties or on such date as the parties may specify.

(b)(3) Funding Amount. This subsection requires the Secretary to make available to the tribe the amount specified in the annual agreement pursuant to subsection (f)(2) and subject to the availability of appropriations.

(b)(4)(A) Payment.-In General. This subsection requires payment under the contract to be made as expeditiously as possible in compliance with applicable Treasury Department regulations.

(b)(4)(B) Quarterly Payments. This subsection requires the Secretary to make quarterly payments if authorized by law and to do so on the first day of each quarter of the fiscal year except for the first quarter when such payment shall be made within ten days after the office of Management and Budget apportions the applicable appropriations.

(b)(5) (A), (B) Records. These subsections provide that unless the Secretary determines that tribal records are required as part of the record keeping system of the Department of the Interior, tribal records shall not be considered to be Federal records under Title 5 of the United States Code. The tribe is required to maintain and ensure access to a record keeping system which will enable the Secretary to comply with the record keeping requirements of chapter 31 of Title 44 of the Untied States Code.

(b)(6) (A), (B), (C) & (D) Property. These subsections authorize the Secretary to make available to the tribe the real and personal property, facilities and equipment which have previously been used to provide the programs, services, functions and activities transferred to the tribe under the contract. Subject to the agreement of the General Services Administration, the tribe is also authorized to acquire excess or confiscated property which may be appropriate to support the tribe's activities under the contract. All such excess property shall be recorded in the Bureau of Indian Affairs' property inventory. The tribe is required to keep records of all capital equipment, property rentals, leases or services which it determines are necessary to perform its obligations under this subsection.

(b)(7) Savings. This subsection provides that any funds appropriated pursuant to the Snyder Act, 25 U.S.C. 13, shall remain available until expended.

(b)(8) (A) & (B) Transportation. Subject to the agreement of the General Services Administration, these subsections authorize Indian tribes to obtain interagency motor pool vehicles and other transportation services and supplies.

(b)(9) Regulatory Authority. This subsection exempts the tribe from Federal program guidelines, manuals or policy directives except as may be otherwise provided by agreement of the parties under this subsection.

(b)(10) (A), (B), (C) & (D) Disputes. These subsections provide that obligations of the United States under the contract shall be construed as duties under section 110 of the Act and that section 110 will govern dispute resolution unless the parties agree to submit disputes to mediation or to the tribal court. The Secretary is required to accept decisions made through mediation or by a tribal court unless such decisions are in conflict with the interests of the Indian tribe or the United States.

(b)(11) Tribal Administrative Procedures. This subsection requires the tribe to provide due process of law pursuant to the Indian Civil Rights Act with respect to all programs, services, functions and activities carried out under the contract.

(b)(12) Successor Annual Agreement. This subsection provides that negotiations for a new annual agreement shall begin not later than 120 days prior to the conclusion of the current annual agreement and that funding levels will only be reduced in the event that appropriations are reduced.

(b)(13) (A) & (B) Secretarial Approval. These subsections provide that 25 U.S.C. 81 and 476 shall not apply to the tribe with respect to any contract entered into in connection with this contract, but all such contracts must be in writing and clearly specify the parties, their duties and the payments to be made.

(c)(1) Obligation of the Tribe-Consolidation. This subsection provides that the tribe will perform all of the programs, services, functions and activities, except for certain education programs, as provided in the annual funding agreement.

(c)(2) Amount of Funds. This subsection provides that the total funding available to the tribe shall be determined by the annual funding agreement which is expressly incorporated into this contract.

(c)(3) Tribal Programs. This subsection obligates the tribe to make a good faith effort to provide the programs, services, functions and activities identified in the annual funding agreement.

(c)(4) Trust Services for Individual Indians. This subsection requires the tribe to provide the same trust services to individuals as were formerly provided by the Secretary, subject to the availability of appropriated funds.

(d)(1) Obligation of the United States-Trust Responsibility. This subsection provides that the United States reaffirms its trust responsibility and that nothing in this contract shall be construed to terminate, waive, modify or reduce the Federal trust responsibility.

(d)(2) Programs Retained. This subsection provides that the United States retains all programs, services, functions and activities that are not specifically assumed by the tribe under the annual funding agreement.

(e)(1) Other Provisions-Designated Officials. This subsection requires the parties to designate officials to receive notices and proposed amendments to the contract.

(e)(2) Indian Preference In Employment, Contracting and Subcontracting. This subsection provides that tribal law governs Indian preference in employment, contracting and subcontracting under the contract and that section 5 of the Act applies to individuals who leave federal employment for tribal employment under the contract.

(e)(3) Contract Modifications or Amendments. This subsection requires all modifications to the contract to be in the form of a written amendment to the contract and to have the consent of the Secretary and the tribe.

(e)(4) Officials Not to Benefit. This subsection prohibits federal officials from sharing in or benefiting from the contract.

(e)(5) Covenant Against Contingent Fees. This subsection requires the parties to warrant that no one has been employed or re-

tained to secure this contract in return for a percentage or contingent fee.

(f)(1) Attachments-Approval of Contract. This subsection references the resolution of the tribe which approves the contract.

(f)(2) Annual Agreement. This subsection incorporates the annual funding agreement into the contract and limits its terms to identification of the programs, services, functions and activities to be performed, the budget category, the funds provided, the time and method of payment and a requirement that all modifications or amendments must be written and signed by both parties.

Section 3. Regulations. This section prohibits the Secretary of the Interior and the Secretary of Health and Human Services from promulgating any regulations relating to the Indian Self-Determination and Education Assistance Act and provides that the provisions of the Indian Self-Determination Contract Reform Act supersede any conflicting regulations or provisions of law.

Section 4. Repeal. This section repeals the provisions of the Indian Self-Determination and Education Assistance Act which authorized the Secretary of the Interior and the Secretary of Health and Human Services to promulgate regulations to implement the Act.

By Mr. JOHNSTON (for himself and Mr. BREAUX):

S.J. Res. 182. A joint resolution to designate the year 1995 as "Jazz Centennial Year"; to the Committee on the Judiciary.

JAZZ CENTENNIAL YEAR

• Mr. JOHNSTON. Mr. President, I am pleased to introduce legislation to request the President to designate 1995 as the "Jazz Centennial Year."

Jazz is the United States most widely recognized indigenous art form and was designated as a "rare and valuable national treasure" in 1987 by Concurrent Resolution 57.

The Louisiana Music Commission, an organization funded by the State of Louisiana to promote the awareness and development of the State's abundant music resources, has convened a prominent group of music historians, players, and supporters to create the New Orleans' Jazz Centennial Celebration [NOJCC] and has chosen 1995 to mark the centennial of jazz. They based this on a general benchmark relating to the formation of the Buddy Bolden band, and the New Orelans' celebration of the 50th anniversary of jazz in 1945.

Mr. President, NOJCC planners are hoping to make this a global celebration. Many believe a Mexican brass band that played at the New Orleans Cotton Exposition of 1885 was an early influence on jazz and Mexico will play a role in the celebration. No doubt, many other cities in America and throughout the world also lay claims to contributing to the evolution of jazz. All are welcome to join in the commemoration, which will only be limited by the imagination of people around the world.

Since Jazz owes its formation to a variety of styles and cultures, and epitomizes the American experiment, the passage of this bill would mark an important step in recognizing the importance of Jazz and impact it has had all around the world. I hope many of my colleagues will join me in this effort. I ask unanimous consent that the text of this resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 182

Whereas jazz is the most widely recognized indigenous art form in the United States and was designated as a rare and valuable national treasure by the Congress in 1987;

Whereas New Orleans, Louisiana is widely recognized as the birthplace of jazz and continues as a center for the employment, performance, preservation, development, and progression of jazz;

Whereas the Louisiana Music Commission, an organization funded by the State of Louisiana to promote the awareness and development of the State's abundant music resources, has convened a prominent group of music historians, players, and supporters to create the New Orleans Jazz Centennial Celebration;

Whereas the Louisiana Music Commission has chosen 1995 as the centennial of jazz, based on a general benchmark relating to the formation of the Buddy Bolden band; and

Whereas the chairman of the Louisiana Music Commission announced to the International Association of Jazz Educators that a year-long commemoration of the centennial of jazz will take place throughout 1995: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the year 1995 is hereby designated as "Jazz Centennial Year". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe this year with appropriate ceremonies and activities that promote a better understanding and awareness of—

(1) jazz as a rare and valuable national treasure;

(2) the appropriate means by which all Americans may learn about our Nation's most widely recognized indigenous art form; and

(3) how this national treasure can be preserved and promoted for the enjoyment of future generations.•

• Mr. BREAUX. Mr. President, it is indeed an honor to join my colleague and friend, Senator J. BENNETT JOHNSTON, the senior Senator of my State, the great State of Louisiana, in introducing a resolution that would designate the year 1995 as "Jazz Centennial Year."

There is uncertainty, Mr. President, about the exact year of the birth of jazz. I expect, though, that most music historians will agree with the New Harvard Dictionary of Music's finding that as this unique American music creation began to "emerge in the 1890's through 1910, the great majority of its most original players resided in New Orleans, Louisiana." Mr. President, in the early decades of the 20th century these great black American musicians include among others, Buddy Bolden, Papa Jack Laine, Freddie Keppard, King Oliver, and Louis Armstrong.

Accordingly, Mr. President, the Louisiana Music Commission, under the chairmanship of Ellis Marsalis, states, and I quote:

In 1995, Louisiana will be staging a yearlong celebration of 100 years of jazz called the New Orleans Centennial Celebration (NOJCC). In choosing 1995, the NOJCC is relying on a general benchmark relating to the formation of the Buddy Bolden band, and the city's celebration of the 50th anniversary of jazz in 1945.

Owing its formation to a variety of styles and cultures, Jazz epitomizes the American experiment, and like America, continues to influence the world. However, it was the special blend of cultures in the Deep South—particularly in Louisiana—that gave rise to this music as a clearly defined style. Thus Louisiana lays claim to being the most musical place on Earth—Jazz, Blues, Gospel, Rhythm & Blues, Country, Rock & Roll, Cajun, Zydeco, and many other styles of music all continue to grow in the fertile souls of Louisiana.

Mr. President, clearly it is fitting and proper that Louisiana lead this Nation and the world in this celebration of Jazz, America's rich and extraordinary musical gift to the world. It is equally fitting that the celebration of Jazz begin with a joint resolution of the Congress of the American people, which will proclaim and honor the founding of this national and world treasure by designating the year 1995 as "Jazz Centennial Year." I urge my colleagues to join Senator JOHNSTON and myself in passing this obviously worthy resolution.•

ADDITIONAL COSPONSORS

S. 1208

At the request of Mr. WOFFORD, the names of the Senator from Indiana [Mr. COATS] and the Senator from Florida [Mr. MACK] were added as cosponsors of S. 1208, a bill to authorize the minting of coins to commemorate the historic buildings in which the Constitution of the United States was written.

S. 1288

At the request of Mr. AKAKA, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 1288, a bill to provide for the coordination and implementation of a national aquaculture policy for the private sector by the Secretary of Agriculture, to establish an aquaculture commercialization research program, and for other purposes.

S. 1576

At the request of Mr. COATS, the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of S. 1576, a bill to provide a tax credit for families, to provide certain tax incentives to encourage investment and increase savings, and to place limitations on the growth of spending.

S. 1592

At the request of Mr. DORGAN, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 1592, a bill to improve Federal decision making by requiring a thorough evaluation of the economic impact of Federal legislative and regulatory requirements on State and local governments and the economic resources located in such State and local governments.

S. 1676

At the request of Mr. MACK, the name of the Senator from Texas [Mr. GRAMM] was added as a cosponsor of S. 1676, a bill to provide a fair, nonpolitical process that will achieve $65,000,000,000 in budget outlay reductions each fiscal year until a balanced budget is reached.

S. 1787

At the request of Mr. MCCONNELL, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of S. 1787, a bill to amend the Internal Revenue Code of 1986 to provide for the tax-free treatment of education savings accounts established through certain State programs, and for other purposes.

S. 1836

At the request of Mr. DOLE, the name of the Senator from Georgia [Mr. COVERDELL] was added as a cosponsor of S. 1836, a bill for the relief of John Mitchell.

S. 1852

At the request of Mr. KENNEDY, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 1852, a bill to amend the Head Start Act to extend authorizations of appropriations for programs under that Act, to strengthen provisions designed to provide quality assurance and improvement, to provide for orderly and appropriate expansion of such programs, and for other purposes.

S. 1863

At the request of Mr. COHEN, the names of the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Oklahoma [Mr. NICKLES], the Senator from California [Mrs. FEINSTEIN], the Senator from Idaho [Mr. CRAIG], the Senator from Mississippi [Mr. COCHRAN], the Senator from Colorado [Mr. CAMPBELL], the Senator from Kentucky [Mr. MCCONNELL], and the Senator from Montana [Mr. BURNS] were added as cosponsors of S. 1863, a bill to amend title II of the Social Security Act to institute certain reforms relating to the provision of disability insurance benefits based on substance abuse and relating to representative payees, and for other purposes.

S. 2000

At the request of Mr. KENNEDY, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of S. 2000, a bill to authorize appropriations for fiscal years 1995 through 1998 to carry out the Head Start Act and the Community Services Block Grant Act, and for other purposes.

S. 2006

At the request of Mr. DOLE, the names of the Senator from Oklahoma [Mr. NICKLES] and the Senator from Montana [Mr. BURNS] were added as cosponsors of S. 2006, a bill to require Federal agencies to prepare private property taking impact analyses, and for other purposes.

S. 2029

At the request of Mr. BREAUX, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 2029, a bill to amend the Internal Revenue Code of 1986 to allow the taxable sale or use, without penalty, of dyed diesel fuel with respect to recreational boaters.

SENATE JOINT RESOLUTION 146

At the request of Mr. WOFFORD, the names of the Senator from Missouri [Mr. DANFORTH] and the Senator from Arkansas [Mr. PRYOR] were added as cosponsors of Senate Joint Resolution 146, a joint resolution designating May 1, 1994, through May 7, 1994, as "National Walking Week."

SENATE JOINT RESOLUTION 165

At the request of Mr. COCHRAN, the names of the Senator from Illinois [Mr. SIMON] and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of Senate Joint Resolution 165, a joint resolution to designate the month of September 1994 as "National Sewing Month."

SENATE JOINT RESOLUTION 172

At the request of Mr. DOLE, the names of the Senator from North Dakota [Mr. DORGAN], the Senator from California [Mrs. BOXER], the Senator from Michigan [Mr. RIEGLE], and the Senator from Louisiana [Mr. BREAUX] were added as cosponsors of Senate Joint Resolution 172, a joint resolution designating May 30, 1994, through June 6, 1994, as a "Time for the National Observance of the 50th Anniversary of World War II."

SENATE RESOLUTION 190

At the request of Mr. D'AMATO, the name of the Senator from Pennsylvania [Mr. WOFFORD] was added as a cosponsor of Senate Resolution 190, a resolution expressing the sense of the Senate that the President should work to achieve a clearly defined and enforceable agreement with allies of the United States which establishes a multilateral export control regime to stem the proliferation of products and technologies to rogue regimes that would jeopardize the national security of the United States.

AMENDMENTS SUBMITTED

BANKRUPTCY AMENDMENTS ACT OF 1994

MCCAIN (AND BURNS) AMENDMENT NO. 1632

Mr. MCCAIN (for himself and Mr. BURNS) proposed an amendment to the bill (S. 540) to improve the administration of the bankruptcy system, address certain commercial issues in bankruptcy, and establish a commission to study and make recommendations on problems with the bankruptcy system, and for other purposes; as follows:

At an appropriate place in the bill, add the following new section:

SEC. . It is the sense of the Senate that—

(1) the policy of providing reserved parking areas free of charge to Members of Congress, other Government officials, and diplomats at Washington National Airport and Dulles International Airport should be ended; and

(2) the Metropolitan Washington Airports Authority should establish a parking policy for such areas that provides equal access to the public, and does not provide preferential parking privileges to Members of Congress, other Government officials, and diplomats.

BROWN (AND OTHERS) AMENDMENT NO. 1633

Mr. HEFLIN (for Mr. BROWN for himself, Mr. GRAHAM, and Mr. CAMPBELL) proposed an amendment to the bill S. 540, supra; as follows:

On page 211, after line 21 insert the following:

SEC. 222. SUPPLEMENTAL INJUNCTIONS.

Section 524 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(g)(1)(A) After notice and hearing, a court that enters an order confirming a plan of reorganization under chapter 11 may issue an injunction to supplement the injunctive effect of a discharge under this section.

"(B) An injunction may be issued under subparagraph (A) to enjoin persons and governmental units from taking legal action for the purpose of directly or indirectly collecting, recovering, or receiving payment or recovery of, on, or with respect to any claim or demand that, under a plan of reorganization, is to be paid in whole or in part by a trust described in paragraph (2)(B)(i), except such legal actions as are expressly allowed by the injunction, the confirmation order, or the plan of reorganization.

"(2)(A) If the requirements of subparagraph (B) are met at any time, then, after entry of an injunction under paragraph (1), any proceeding that involves the validity, application, construction, or modification of the injunction or of this subsection with respect to the injunction may be commenced only in the district court in which the injunction was entered, and such court shall have exclusive jurisdiction over any such proceeding without regard to the amount in controversy.

"(B) The requirements of this subparagraph are that—

"(i) the injunction is to be implemented in connection with a trust that, pursuant to the plan of reorganization—

"(I) is to assume the liabilities of a debtor which at the time of entry of the order for

relief has been named as a defendant in personal injury, wrongful death, or property-damage actions seeking recovery for damages allegedly caused by the presence of, or exposure to, asbestos or asbestos-containing products;

"(II) is to be funded in whole or in part by the securities of 1 or more debtors involved in the plan of reorganization and by the obligation of such debtor or debtors to make future payments;

"(III) is to own, or by the exercise of rights granted under the plan could own, a majority of the voting shares of—

"(aa) each such debtor;

"(bb) the parent corporation of each such debtor; or

"(cc) a subsidy of each such debtor that is also a debtor; and

"(IV) is to use its assets or income to pay claims and demands; and

"(ii) the court, at any time pursuant to its authority under the plan, over the trust, or otherwise, determines that—

"(I) the debtor may be subject to substantial future demands for payment arising out of the same or similar conduct or events that gave rise to the claims that are addressed by the injunction;

"(II) the actual amounts, numbers, and timing of such future demands cannot be determined;

"(III) pursuit of such demands outside the procedures prescribed by the plan may threaten the plan's purpose to deal equitably with claims and future demands;

"(IV) as part of the process of seeking approval of the plan of reorganization—

"(aa) the terms of the injunction proposed to be issued under paragraph (1)(A), including any provisions barring actions against third parties pursuant to paragraph (4)(A), shall be set out in the plan of reorganization and in any disclosure statement supporting the plan; and

"(bb) a separate class or classes of the claimants whose claims are to be addressed by a trust described in clause (i) is established and votes, by at least 75 percent of those voting, in favor of the plan; and

"(V) pursuant to court orders or otherwise, the trust will operate through mechanisms such as structured, periodic or supplemental payments, pro rata distributions, matrices, or periodic review of estimates of the numbers and values of present claims and future demands or other comparable alternates, that provide reasonable assurance that the trust will value, and be in a financial position to pay, present claims and future demands that involve similar claims in substantially the same manner.

"(3)(A) If the requirements of paragraph (2)(B) are met and the order approving the plan or reorganization was issued or affirmed by the district court that has jurisdiction over the reorganization proceedings, then after the time for appeal of the order that issues or affirms the plan of reorganization—

"(i) the injunction shall be valid and enforceable and may not be revoked or modified by any court except through appeal in accordance with paragraph (6);

"(ii) no entity that pursuant to the plan of reorganization or thereafter becomes a direct or indirect transferee of, or successor to any assets of, a debtor or trust that is the subject of the injunction shall be liable with respect to any claim or demand made against it by reason of its becoming such a transferee or successor; and

"(iii) no entity that pursuant to the plan of reorganization or thereafter makes a loan to such a debtor or trust or to such a successor or transferee shall, by reason of making the loan, be liable with respect to any claim or demand made against it, nor shall any pledge of assets made in connection with such a loan be upset or impaired for that reason;

"(B) Subparagraph (A) shall not be construed to—

"(i) imply that an entity described in subparagraph (A) (ii) or (iii) would, if this paragraph were not applicable, have liability by reason of any of the acts described in subparagraph (A);

"(ii) relieve any such entity of the duty to comply with, or of liability under, any Federal or State law regarding the making of a fraudulent conveyance in a transaction described in subparagraph (A) (ii) or (iii); or

"(iii) relieve a debtor of the debtor's obligation to comply with the terms of the plan of reorganization or affect the power of the court to exercise its authority under sections 1141 and 1142 to compel the debtor to do so.

"(4)(A)(i) Subject to subparagraph (B), an injunction under paragraph (1) shall be valid and enforceable against all persons and governmental units that it addresses.

"(ii) Notwithstanding section 524(e), such an injunction may bar any action directed against a third party who—

"(I) is identifiable from the terms of the injunction (by name or as part of an identifiable group); and

"(II) is alleged to be directly or indirectly liable for the conduct of, claim against, or demands on the debtor.

"(B) With respect to a demand (including a demand directed against a third party who is identifiable from the terms of the injunction (either by name or as part of an identifiable group) and who is alleged to be directly or indirectly liable for the conduct of, claims against, or demands on the debtor) that is made subsequent to the confirmation of a plan against any person or entity that is the subject of an injunction issued under paragraph (1), the injunction shall be valid and enforceable if, as part of the proceedings leading to its issuance, the court appointed a legal representative for the purpose of protecting the rights of persons that might subsequently assert such a demand.

"(5) In this subsection, the term 'demand' means a demand for payment, present or future, that—

"(A) was not a claim during the proceedings leading to the confirmation of a plan of reorganization;

"(B) arises out of the same or similar conduct or events that give rise to the claims addressed by the injunction issued under paragraph (1); and

"(C) pursuant to the plan, is to be paid by a trust described in paragraph (2)(B)(i).

"(6) Paragraph (3)(A)(i) does not bar an action taken by or at the direction of an appellate court on appeal of an injunction issued under paragraph (1) or of the order of confirmation that relates to the injunction.

"(7) This subsection applies to an injunction of the nature described in paragraph (1)(B) in effect, and any trust of the nature described in paragraph (2)(B) in existence, on or after the date of enactment of this subsection.

"(8) This subsection does not affect the operation of section 1144 or the power of the district court to refer a proceeding under section 157 of title 28 or any reference of a proceeding made prior to the date of enactment of this subsection.

"(9) Nothing in subsection (g) shall affect the court's authority to issue an injunction (including an injunction that requires claims and demands to be presented for payment solely to a trust or any other type of court approved settlement vehicle) which is entered pursuant to an order approving a plan of reorganization.

"(10)(A) If, upon a motion by a representative appointed by the court identified in paragraph (1)(A) to protect the interests of persons with demands of the kind described in paragraph (2)(B)(ii)(I) or on its own motion, the court finds, as a result of enhanced credible estimating procedures with respect of such demands, inequities in the distribution process of a trust of the nature described in paragraph (2)(B), the court shall have, in addition to the powers over the trust that the court may lawfully exercise under applicable nonbankruptcy law, plenary equitable power to reform, restructure, or modify the trust, the procedures under which it operates, or the timing, manner, and amount of distributions to its beneficiaries and other rights of the beneficiaries, giving special attention to cases presenting exigent circumstances, as it shall determine to be fair, just, and reasonable in light of the circumstances prevailing at the time of reformation, restructure or modification.

"(B) Nothing in this paragraph shall be construed to grant the court authority to modify or in any way alter the debtor's obligation to comply with the terms of the plan of reorganization.".

DECONCINI AMENDMENT NO. 1634

Mr. DECONCINI proposed an amendment to the bill S. 540, supra; as follows:

On page 160, insert between lines 6 and 7 the following new section:

SEC. 116. ADDITIONAL TRUSTEE COMPENSATION.

Section 330(b) of the title 11, United States Code, is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end thereof the following new paragraph:

"(2) The Judicial Conference of the United States shall prescribe additional fees of the same kind as prescribed under section 1914(b) of title 28, to pay $15 to the trustee serving in such case after such trustee's services are rendered. Such $15 shall be paid in addition to the amount paid under paragraph (1).".

THURMOND (AND HELMS) AMENDMENT NO. 1635

Mr. THURMOND (for himself and Mr. HELMS) proposed an amendment to the bill S. 540, supra; as follows:

On page 235, between lines 13 and 14 insert the following:

SEC. 311. FAIRNESS TO CONDOMINIUM AND COOPERATIVE OWNERS.

Section 523(a) of title 11, United States Code, as amended by section 210, is amended—

(1) by striking "or" at the end of paragraph (13);

(2) by adding "or" at the end of paragraph (14); and

(3) by adding at the end the following new paragraph:

"(15) for a fee that becomes due and payable after the order for relief to a membership association with respect to the debtor's interest in a dwelling unit that has condominium ownership or in a share of a cooperative housing corporation, if such fee is payable for a period during a substantial portion of which—

"(A) the debtor physically occupied a dwelling unit in the condominium or cooperative project; or

"(B) the debtor rented the dwelling unit to a tenant and received payments from the tenant for such period,

but nothing in this paragraph shall except from discharge the debt of a debtor for a membership association fee for a period arising before entry of the order for relief in a pending or subsequent bankruptcy proceeding.".

REID (AND OTHERS) AMENDMENT NO. 1636

Mr. REID (for himself, Mr. AKAKA, MR. BRYAN, and Mr. MURKOWSKI) proposed an amendment to the bill, S. 540, supra; as follows:

At the appropriate place, insert:

SEC. . LIMITATION ON STATE TAXATION OF CERTAIN PENSION INCOME.

(a) IN GENERAL.—Chapter 4 of title 4 of the United States Code is amended by adding at the end thereof the following new section:

§ 114. Limitation on State income taxation of pension income

"(a) No State may impose an income tax (as defined in section 110(c)) on the qualified pension income of any individual who is not a resident or domiciliary of such State.

"(b)(1) For purposes of subsection (a), the term 'qualified pension income' means any payment from a qualified made for—

"(A) which is part of a series of substantially equal periodic payments (not less frequently than annually) made for—

"(i) the life or life expectancy of the recipient or for the joint lives or joint life expectancies of the recipient and the recipient's designated beneficiary, or

"(ii) a period of not less than 10 years, or

"(B) which is not described in subparagraph (A) and which—

"(i) is received in a taxable year for which an election under this subsection is in effect, and

"(ii) is received on or after the date on which the recipient has attained the age of 59½,

except that the aggregate amount of payments to which this subparagraph may apply for any taxable year shall not exceed $25,000.

"(2) For purposes of paragraph (1), the term 'qualified plan' means—

"(A) an employees' trust described in section 401(a) of the Internal Revenue Code of 1986 which is exempt from tax under section 501(a) of such Code,

"(B) a simplified employee pension described in section 408(k) of such Code,

"(C) an annuity plan described in section 403(a) of such Code,

"(D) an annuity contract described in section 403(b) of such Code,

"(E) an individual retirement plan described in section 7701(a)(37) of such Code,

"(F) an eligible deferred compensation plan under section 457 of such Code, or

"(G) a governmental plan described in section 414(d) of such Code, other than a plan established and maintained by a State or political subdivision of a State, or an agency or instrumentality of either.

"(3) For purposes of paragraph (1), any retired or retainer pay of a member or former member of a uniform service computer under chapter 71 of title 10, United States Code, shall be treated as a payment from a qualified plan.

"(4)(A) An election under paragraph (1)(B), once made from a taxable year, may not be made for any other taxable year.

"(B) In calendar years beginning after 1994, the $25,000 amount referred to in paragraph (1)(B) shall be increased by an amount equal to such dollar amount, multiplied by the cost-of-living adjustment determined under section 1(f)(3) of such Code for such calendar year by substituting 'calendar year 1993' for 'calendar year 1992' in subparagraph (b) thereof.

"(c) For purposes of subsection (a), the term 'State' includes any political subdivision of a State, the District of Columbia, and the possessions of the United States."

(b) CLERICAL AMENDMENT.—The table of sections for such chapter 4 is amended by adding at the end thereof the following new item:

"114. Limitation on State income taxation of pension income."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

REID (AND BROWN) AMENDMENT NO. 1637

Mr. REID (for himself and Mr. BROWN) proposed an amendment to the bill S. 540, supra; as follows:

On page 160, between lines 6 and 7 insert the following:

SEC. 116. LIMITATION ON FILING OF CHAPTER 13 BANKRUPTCY PETITIONS.

Section 109, of title 11, United States Code, is amended by adding at the end the following new subsection:

"(h) Notwithstanding any other provision of the section, no individual may be a debtor under chapter 13 who has been a debtor in a case that was filed under that chapter at any time in the preceding 3 years.".

HEFLIN AMENDMENT NO. 1638

Mr. HEFLIN proposed an amendment to the bill S. 540, supra; as follows:

On page 144, strike lines 1 through 7.

On page 144, line 8, strike "**1041**" and insert "**103**".

On page 146, line 1, strike "**105**" and insert "**104**".

On page 148, strike line 3 and all that follows through page 149, line 9, and insert the following:

"(B) The judicial council of a circuit need not establish a bankruptcy appellate panel service if the judicial council finds that—

"(i) there are insufficient judicial resources available in the circuit;

"(ii) establishment of such a service would result in undue delay or increased cost to parties in cases under title 11; or

"(iii)(I) other factors of sound judicial administration make the creation of such a service inappropriate; and

"(II) bankruptcy appeals are being heard and decided by the district courts in a timely manner.

"(2)(A)(i) A judicial council may at any time reconsider its decision to create or not to create a bankruptcy appellate panel service.

"(ii) A decision on reconsideration under clause (i) shall be submitted to the Judicial Conference of the United States within 90 days after it is made.

"(B) If the judicial council of a circuit finds that a circumstance described in paragraph (1)(B) (i), (ii), or (iii) exists, the judicial council may provide for the completion of the appeals then pending before a bankruptcy appellate panel service and the orderly termination of the service.

On page 151, line 7, strike "**106**" and insert "**105**".

On page 152, line 1, strike "**107**" and insert "**106**".

On page 153, line 3, strike "**108**" and insert "**107**".

On page 154, line 3, strike "**109**" and insert "**108**".

On page 156, line 15, strike "**110**" and insert "**109**".

On page 156, line 23, strike "10th" and insert "15th".

On page 157, line 1, after "(e)(2)" insert "(as it applies to a cash tender offer)".

On page 157, line 5, strike "**111**" and insert "**110**".

On page 157, line 23, strike "**112**" and insert "**111**".

On page 158, strike lines 16 through 22 and insert the following:

SEC. 112. SERVICE OF PROCESS IN BANKRUPTCY PROCEEDINGS ON AN INSURED DEPOSITORY INSTITUTION.

Rule 7004 of Bankruptcy Rules is amended—

(1) in subsection (b) by striking "In addition" and inserting "Except as provided in subdivision (h), in addition"; and

(2) by adding at the end the following new subdivision:

"(h) SERVICE OF PROCESS ON AN INSURED DEPOSITORY INSTITUTION.—Notwithstanding any other provision of this rule or any other rule or law, service on an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)) shall be made by certified mail addressed to an officer of the institution unless—

"(1) the institution has appeared by its attorney, in which case the attorney shall be served by first class mail;

"(2) the court orders otherwise after service upon the institution by certified mail of notice of an application to permit service on the institution by first class mail sent to an officer of the institution designated by the institution; or

"(3) the institution has waived in writing its entitlement to service by certified mail by designating an officer to receive service.".

On page 159, line 1, strike "**114**" and insert "**113**".

On page 160, between lines 6 and 7 insert the following:

SEC. 116. EXTENSION TO CERTAIN JUDICIAL OFFICIALS OF LIFE INSURANCE RULES CURRENTLY APPLICABLE TO FEDERAL JUDGES.

(a) ELIGIBILITY.—Section 8701(a) of title 5, United States Code, is amended—

(1) in paragraph (9) by striking "and" after the semicolon;

(2) in paragraph (10) by adding "and" after the semicolon; and

(3) by inserting after paragraph (10) and preceding the matter before subparagraph (A) the following new paragraph:

"(11) a judicial official (as defined in section 376(a)(1) of title 28), including—

"(i) a judge of the United States Court of Federal Claims—

"(I) who is in regular active service, or

"(II) who is retired from regular active service under section 178 of title 28;

"(ii) a judge of the District Court of Guam, the District Court of the Northern Mariana Islands, or the District Court of the Virgin Islands—

"(I) who is in regular active service, or

"(II) who is retired from regular active service under section 373 of title 28; and

"(iii) a bankruptcy judge or a magistrate judge—

"(I) who is in regular active service, or

"(II) who retired after attaining age 65 from regular active service under chapter 83

or 84 of this title, section 377 of title 28, or section 2(c) of the Retirement and Survivors' Annuities for Bankruptcy Judges and Magistrates Act of 1988 (28 U.S.C. 377 note; Public Law 100-659);".

(b) CONTINUATION OF COVERAGE.—

(1) TERMINATION; OPTIONAL INSURANCE.—(A) Sections 8706(a) and 8714b(c)(1) of title 5, United States Code, are each amended in the second sentence by inserting "and judicial officials specifically included under section 8701(a)(11)" after "section 8701(a)(5) (ii) and (iii)".

(B) Sections 8714a(c)(1) and 8714c(c)(1) of title 5, United States Code, are each amended by adding after the first sentence "Justices and judges described under section 8701(a)(5) (ii) and (iii) and judicial officials specifically included under section 8701(a)(11) of this chapter are deemed to continue in active employment for purposes of this chapter.".

(2) APPLICATION OF AMENDMENTS.—The amendments made by paragraph (1) shall apply to a judicial officer described in section 8701(a)(11) of title 5, United States Code (as amended by this section) who—

(A) is retired under chapter 83 or 84 of title 5, United States Code, section 178, 373, or 377 of title 28, United States Code, or section 2(c) of the Retirement and Survivors' Annuities for Bankruptcy Judges and Magistrates Act of 1988 (28 U.S.C. 377 note); and

(B) retires on or after August 1, 1987.

(c) TECHNICAL AMENDMENTS.—

(1) SECTION 8714A.—Section 8714a(c) of title 5, United States Code, is amended by striking paragraph (3).

(2) SECTION 8714B.—Section 8714b(c)(1) is amended by striking the third sentence.

SEC. 117. SETTLEMENT OF CLAIMS AND DEMANDS FOR PAYMENT.

Section 105 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(d) A court may issue an injunction that requires claims and demands to be presented for payment solely to a trust or other vehicle that is established for the purpose of settling such claims and demands and is approved by the court and entered into pursuant to an order approving a plan of reorganization.".

On page 160, strike line 9 and all that follows through page 188, line 25, and insert the following:

SEC. 201. SMALL BUSINESSES.

(a) DEFINITION.—Section 101 of title 11, United States Code, as amended by section 501, is amended by inserting in its proper alphabetical position the following new definition:

"'small business' means a person engaged in commercial or business activities (but does not include a person whose primary activity is the business of owning or operating real property and activities incidental thereto) whose aggregate liquidated secured and unsecured debts as of the date of the petition do not exceed $2,500,000.".

(b) CREDITORS' COMMITTEES.—Section 1102(a) of title 11, United States Code, is amended—

(1) in paragraph (1) by striking "As" and inserting "Except as provided in paragraph (3), as"; and

(2) by adding at the end the following new paragraph:

"(3) On request of a party in interest in a case in which the debtor is a small business, the court may order that a committee of creditors not be appointed.".

(c) CONVERSION OR DISMISSAL.—Section 1112(b) of title 11, United States Code, is amended by inserting "or bankruptcy administrator" after "United States trustee".

(d) WHO MAY FILE A PLAN.—Section 1121 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(d) In a case in which the debtor is a small business—

"(A) only the debtor may file a plan until after 90 days after the date of the order for relief under this chapter;

"(B) all plans for relief shall be filed within 150 days after the date of the order for relief; and

"(C) on request of a party in interest made within the respective periods specified in subparagraphs (A) and (B) and after notice and a hearing, the court may—

"(i) reduce the 90-day period or the 150-day period specified in subparagraph (A) or (B) for cause; and

"(ii) increase the 90-day period specified in subparagraph (A) if the debtor shows that the need for an increase is caused by circumstances for which the debtor should not be held accountable.".

(e) POSTPETITION DISCLOSURE.—Section 1125 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(f) Notwithstanding subsection (b), in a case in which the debtor is a small business—

"(1) the court may conditionally approve a disclosure statement subject to final approval after notice and a hearing;

"(2) acceptances and rejections of a plan may be solicited based on a conditionally approved disclosure statement so long as the debtor provides adequate information to each holder of a claim or interest that is solicited, but a conditionally approved disclosure statement shall be mailed at least 10 days prior to the date of the hearing on confirmation of the plan; and

"(3) a hearing on the disclosure statement may be combined with a hearing on confirmation of a plan.".

On page 200, strike line 11 and all that follows through page 201, line 3, and insert the following:

"(18) under subsection (a), of withholding of income from a debtor's wages and collection of amounts withheld, pursuant to statute or the debtor's agreement authorizing such withholding and collection for the benefit of a qualified employer plan (within the meaning of section 72(p)(4) of the Internal Revenue Code of 1986), to the extent that the amounts withheld and collected are used solely for payments relating to a loan from the plan secured by the debtor's nonforfeitable accrued benefit under the plan.".

On page 201, line 4, strike "Subsection" and insert "Section".

On page 201, strike lines 12 through 23 and insert the following:

"(13) owed to a qualified employer plan (within the meaning of section 72(p)(4) of the Internal Revenue Code of 1986) pursuant to a loan from the plan secured by the debtor's nonforfeitable accrued benefit under the plan.".

On page 202, strike lines 1 through 16 and insert the following:

(c) PROPERTY OF THE ESTATE.—Section 541(b) of title 11, United States Code, as amended by section 501(d)(12), is amended in paragraph (1)—

(1) by striking "or" at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting "; or"; and

(3) by adding at the end the following new subparagraph:

"(E) any nontransferable interest of the debtor in a qualified employer plan (within the meaning of section 72(p)(4) of the Internal Revenue Code of 1986) to the extent not otherwise excluded from the debtor's estate pursuant to subsection (c)(2).".

On page 204, line 10, after "Code," insert "as amended by section 207(b),".

On page 204, line 13, strike "(11)" and insert "(12)".

On page 204, line 14, strike "(12)" and insert "(13)".

On page 204, line 18, strike "(13)" and insert "(14)".

On page 205, strike line 12 and all that follows through page 206, line 12, and insert the following:

SEC. 212. EXCEPTION TO DISCHARGE.

Section 523(a)(2)(C) of title 11, United States Code, is amended—

(1) by striking "forty" and inserting "60".

SEC. 213. PROCEEDS OF MONEY ORDER AGREEMENTS.

Section 541(b) of title 11, United States Code, as amended by section 207(c), is amended in paragraph (1)—

(1) by striking "or" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting "; or"; and

(3) by adding at the end the following new subparagraph:

"(F) any interest in cash or cash equivalents that constitute proceeds of a sale by the debtor of a money order that is made—

"(i) on or after the date that is 14 days prior to the date on which the petition is filed; and

"(ii) under an agreement with a money order issuer that prohibits the commingling of such proceeds with property of the debtor (notwithstanding that, contrary to the agreement, the proceeds may have been commingled with property of the debtor),

unless the money order issuer had not taken action, prior to the filing of the petition, to require compliance with the prohibition.".

On page 207, line 14, strike "subparagraphs (B) and (C)" and insert "subparagraph (B)".

On page 211, after line 21, add the following:

SEC. 222. REJECTION OF UNEXPIRED LEASES OF REAL PROPERTY OR TIMESHARE INTERESTS.

(a) AMENDMENT OF SECTION 365.—Section 365(h) of title 11, United States Code, is amended to read as follows:

"(h)(1)(A) If the trustee rejects an unexpired lease of real property under which the debtor is the lessor—

"(i) if the rejection by the trustee amounts to such a breach as would entitle the lessee to treat the lease as terminated by virtue of its own terms, applicable nonbankruptcy law, or any other lease or agreement that the lessee has made with another party, the lessee under the lease may treat the lease as terminated by the rejection; or

"(ii) if the term of the lease has commenced, the lessee may retain its rights under the lease that are in or appurtenant to the leasehold estate (including lease provisions such as those relating to the amount and timing of payment of rent and other amounts payable by the lessee or to any right of use, possession, quiet enjoyment, subletting, assignment, or hypothecation) for the balance of the term of the lease and for any renewal or extension of such term as is enforceable under applicable nonbankruptcy law.

"(B) If the lessee retains its rights under subparagraph (A)(ii), the lessee may set off against the rent reserved under the lease for

the balance of the term after the date of the rejection of the lease, and any renewal or extension of the lease, any damages occurring after the date of rejection caused by the nonperformance of any obligation of the debtor under the lease after that date, but the lessee does not have any rights against the estate on account of any damages arising after that date from the rejection, other than the setoff.

"(C) The rejection of a lease of real property in a shopping center with respect to which the lessee elects to retain its rights under subparagraph (A)(ii) does not affect the enforceability under applicable nonbankruptcy law of any provision in the lease pertaining to radius, location, use, exclusivity, or tenant mix or balance.

"(D) In this paragraph, 'lessee' includes any successor, assign, or mortgagee permitted by the lease.

"(2)(A) If the trustee rejects a timeshare interest under a timeshare plan under which the debtor is the timeshare interest seller—

"(i) the timeshare interest purchaser under the timeshare plan may treat the timeshare plan as terminated by the rejection if the rejection amounts to such a breach as would entitle the timeshare interest purchaser to treat the timeshare plan as terminated by virtue of its own terms, applicable nonbankruptcy law, or any other agreement that the timeshare interest purchaser has made with another party; or

"(ii) the timeshare interest purchaser may retain its rights in the timeshare interest under any timeshare plan the term of which has commenced for the balance of such term and for any renewal or extension of such term as is enforceable under applicable nonbankruptcy law.

"(B) If the timeshare interest purchaser retains its rights under subparagraph (A), the timeshare interest purchaser may set off against the moneys due for the timeshare interest for the balance of the term after the date of the rejection of the timeshare interest, and any renewal or extension thereof, any damages occurring after the date of rejection caused by the nonperformance of any obligation of the debtor under the timeshare plan after that date, but the timeshare interest purchaser does not have any rights against the estate on account of any damages arising after that date from the rejection, other than the setoff.".

(b) TECHNICAL AMENDMENT.—Section 553(b)(1) of title 11, United States Code, is amended by striking "365(h)(2)" and inserting "365(h)".

SEC. 223. CONTENTS OF PLAN.

Section 1123(b) of title 11, United States Code, is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by redesignating paragraph (5) as paragraph (6); and

(3) by inserting after paragraph (4) the following new paragraph:

"(5) in a case in which the debtor is a small business, modify the rights of holders of secured claims, other than a claim secured only by a security interest in real property that is the debtor's principal residence, or of holders of unsecured claims, or leave unaffected the rights of holders of any class of claims, but the plan may not modify a claim pursuant to section 506 of a person holding a primary or a junior security interest in real property or a manufactured home (as defined in section 603(6) of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5402(6)) that is the debtor's principal residence, except that the plan may modify the claim of a person holding such a junior security interest that was undersecured at the time the interest attached to the extent that the interest remains undersecured;".

On page 212, lines 12 and 13, strike "judgment," and insert "judgment prior to consummation of a foreclosure sale,".

On page 213, strike line 23 and all that follows through page 214, line 3, and insert the following:

(A) in paragraph (7) by striking "(7) Seventh" and inserting "(8) Eighth";

(B) in paragraph (8) by striking "(8) Eighth" and inserting "(9) Ninth"; and

(C) by inserting after paragraph (6) the following new paragraph:

"(7) Seventh, allowed claims for debts to a spouse,

On page 215, line 7, strike "and".

On page 213, line 3, before "Section" insert "(a) IN GENERAL.—".

On page 213, between lines 5 and 6, insert the following:

(b) TECHNICAL AMENDMENT.—Section 3613(f) of title 18, United States Code, is amended by striking "No" and inserting "Except as provided in section 1328(a)(3) of title 11, no".

On page 216, line 6, strike "support)." and insert "support); or".

On page 234, lines 12 and 13, strike "the amount necessary to cure a default under a plan, if any" and insert "if it is proposed in a plan to cure a default, the amount necessary to cure the default".

On page 234, lines 20 and 21, strike "the amount necessary to cure a default under a plan, if any" and insert "if it is proposed in a plan to cure a default, the amount necessary to cure the default".

On page 235, lines 5 and 6, strike "the amount necessary to cure a default under a plan, if any" and insert "if it is proposed in a plan to cure a default, the amount necessary to cure the default".

On page 272, line 24, strike "(a)(8)" and insert "(a)(9), as redesignated by section 303(b)(1)(B),".

On page 274, strike lines 8 and 9 and insert the following:

(12) in section 541(b)—

(A) by inserting "(1)" after "(b)" and redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), and (D), respectively;

(B) in subparagraph (D) of paragraph (1), as redesignated by subparagraph (A), by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(C) in subparagraph (C) of paragraph (1), as redesignated by subparagraph (A), by striking "institution or" and inserting "institution; or"; and

(D) in the matter following subparagraph (D) of paragraph (1), as redesignated by subparagraph (A), by striking "Paragraph (4) shall not" and inserting the following:

"(2) Paragraph (1)(D) shall not".

On page 275, line 18, after "(12)" insert "by".

COCHRAN AMENDMENT NO. 1639

Mr. COCHRAN proposed an amendment to the bill S. 540, supra; as follows:

At the end of title II add the following:

SEC. 222. PRIORITY FOR INDEPENDENT SALES REPRESENTATIVES.

Section 507(a)(3) of title 11, United States Code, is amended to read as follows:

"(3) Third, allowed unsecured claims, but only to the extent of $2,000 for each individual or corporation, as the case may be, earned within 90 days before the date of the filing of the petition or the date of the cessation of the debtor's business, whichever occurs first, for—

"(A) wages, salaries, or commissions, including vacation, severance, and sick leave pay earned by an individual; or

"(B) sales commissions earned by an individual or by a corporation with only 1 employee, acting as an independent contractor in the sale of goods or services for the debtor in the ordinary course of the debtor's business if, and only if, during the 12 months preceding that date, at least 75 percent of the amount that the individual or corporation earned by acting as an independent contractor in the sale of goods or services was earned from the debtor;".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. HEFLIN. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Wednesday, April 20, 1994, at 10 a.m., in SD–562, on the GATT agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. HEFLIN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 9:30 a.m. on Wednesday, April 20, 1994, in open/closed session, to receive testimony from the unified commanders on their military strategy and operational requirements in review of the Defense authorization request for fiscal year 1995 and the future years Defense program.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. HEFLIN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 9:30 a.m., April 20, 1994, to receive testimony on the Department of the Interior's proposed rule to amend the Department's regulations concerning livestock grazing; S. 1326, a bill to establish a forage fee formula on lands under the jurisdiction of the Department of the Interior; and S. 896, a bill to amend the Federal Land Policy and Management Act of 1976 to promote ecologically healthy and biologically diverse ecosystems on rangelands used for domestic livestock grazing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. HEFLIN. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, April 20, 1994, beginning at 9:30 a.m., in 216 Hart Senate Office Building on the regulation of gaming.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON COURTS AND ADMINISTRATIVE PRACTICE

Mr. HEFLIN. Mr. President, I ask unanimous consent that the Subcommittee on Courts and Administrative Practice, of the Committee on the Judiciary, be authorized to meet during the session of the Senate on Wednesday, April 20, 1994, at 10 a.m., to hold a hearing on dangerous agreements and S. 1404, the Sunshine in Litigation Act: How court secrecy harms public safety.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

Mr. HEFLIN. Mr. President, I would like to ask unanimous consent that the Subcommittee on Oversight of Government Management, Committee on Governmental Affairs, be granted authority to meet during the session of the Senate on Wednesday, April 20, 1994, at 2 p.m., to hold a hearing on reauthorization of the Office of Government Ethics.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TERRORISM, NARCOTICS AND INTERNATIONAL OPERATIONS

Mr. HEFLIN. Mr. President, I ask unanimous consent that the Subcommittee on Terrorism, Narcotics and International Operations of the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Wednesday, April 20, 1994, at 10 a.m. to hold a hearing on: Recent developments in transnational crime affecting United States law enforcement and foreign policy; mutual legal assistance treaty in criminal matters with Panama; Treaty Doc. 102–15; and 1994 International Narcotics Control Strategy Report.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TERRORISM, NARCOTICS AND INTERNATIONAL OPERATIONS

Mr. HEFLIN. Mr. President, I ask unanimous consent that the Subcommittee on Terrorism, Narcotics and International Operations of the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Wednesday, April 20, 1994, at 2 p.m. to hold a hearing on: Recent developments in transnational crime affecting United States law enforcement and foreign policy; mutual legal assistance treaty in criminal matters with Panama; Treaty Doc. 102–15; and 1994 International Narcotics Control Strategy Report.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE FIRST LADIES LUNCHEON PRAYER

• Mr. HATFIELD. Mr. President, my wife Antoinette, recently shared with me the prayer offered at the First Ladies Luncheon last week by Mrs. Barbara Pryor, the gracious and eloquent wife of my colleague from Arkansas, DAVID PRYOR. The passage moved me deeply, and I felt compelled to share it with my colleagues. I trust they will be equally inspired by her words.

The prayer follows:

THE FIRST LADIES LUNCHEON PRAYER

(By Barbara Pryor)

Lord, give us peace in our land. Slow us down. Ease the pounding of our hearts by the quietening of our minds. Steady our hurried pace with a vision of eternal time. Give us calmness in the confusion of our days, and help us to know the restoring power of rest. Teach us the art of slowing down to look at a flower, to plant a tree, to chat with a friend, to hold a loved one, to read a few lines from a good book. Remind us each day that the race is not to the swift, that there is more to life than increasing its speed. Let us look upward into the branches of the tall oak and know that it grew strong because it grew slowly and well. Inspire us to send our roots deep—so that we may grow toward the stars of our greater destiny. Bless our First Lady and her husband. Keep them strong and well and able to endure the challenging path before them. Amen.•

CREATING A NUCLEAR STRAW MAN

• Mr. SIMON. Mr. President, I have been puzzled by the fact that South Korea and Japan seem to be less concerned about the North Korean nuclear threat than the United States.

Obviously, they are concerned, but there is not the same frenzy about it.

I came away with a little more perspective after catching up on my newspaper reading the other day and came across retired Navy Rear Adm. Eugene J. Carroll, Jr.'s op-ed piece in the Los Angeles Times titled, "Creating a Nuclear Straw Man."

For those interested in the North Korean threat, and I do not suggest that is does not exist, Adm. Carroll's comments give some perspective and lend a little more balance and rationality to the whole scene.

I ask to insert his article into the RECORD at this point.

The article follows:

PERSPECTIVE ON NORTH KOREA—CREATING A NUCLEAR STRAW MAN

(By Eugene J. Carroll, Jr.)

North Korea, lost for years in the back pages of newspapers and absent entirely from TV news, has re-emerged as headline material.

Always a hard case, certainly no friend of America. North Korea has quietly been disintegrating economically for decades while South Korea has become a powerful economic, political and military force in Northeast Asia. Now, with twice the population and 10 times the productive output of its neighbor, South Korea seems well situated to deal with any military threat it might perceive from North Korea.

In 1989, Pentagon representatives testified in Congress that "South Korean forces are capable of defending themselves against any threat from the North that does not involve either the Soviet Union or the Peoples' Republic of China." Since then, North Korea has made no significant change in its military forces or weapons and has cut its military spending in half ($4.1 billion to $2.2 billion). During the same period, South Korea has upgraded its forces qualitatively and increased defense spending almost 50% ($8.5 billion to $12.1 billion).

It is difficult to explain how South Korea is more vulnerable now when it is outspending North Korea by a 6–1 margin and enjoys marked superiority in the quality of its military equipment, technology, mobility and support.

For this reason, Pentagon officials have been forced to highlight the North Korean nuclear program as a "new danger" in order to justify the official expressions of alarm now dominating the news. Secretary of Defense William J. Perry has issued a series of dramatic assessments of the growing nuclear threat from North Korea. On Easter Sunday, speaking on NBC's "Meet the Press," he raised the stakes by establishing a six-month time limit for North Korea to satisfy U.S. demands that it freeze its nuclear program. This is diplomacy by ultimatum, and notoriously unsuccessful negotiating technique when dealing with authoritarian leaders.

And what motivates the ultimatum? Just what great danger lurks north of the DMZ? According to Perry, North Korea may now have enough plutonium to build one or two nuclear explosive devices. That estimate is far from certain because it rests on the assumption that the North Koreans refueled their 5-megawatt reactor in 1989. If not, they do not have enough plutonium to make a firecracker.

Even if North Korea did refuel, further assumptions must be validated to postulate a nuclear threat: that North Korea has a reprocessing capability efficient enough to produce up to 15 kilograms of weapons-grade plutonium from the spent reactor fuel; that is has been able to fashion a reliable "trigger" to produce a significant explosion, and that it has been able to package their design in a configuration small enough for use as a deliverable weapon.

Unless all three assumptions are true, North Korea's nuclear program has little military significance, because possessing one or two explosive devices is a far cry from the ability to employ nuclear weapons for military purposes.

The tenuous proposition that we face a growing North Korean nuclear threat was weakened last December by then-Secretary of Defense Les Aspin. "Whatever happened in 1989, the situation is not deteriorating now." Aspin said. "They are not developing more plutonium to make more nuclear bombs."

Because it is really impossible to describe a credible current threat, Perry has now resorted to pointing with alarm at a hypothetical threat that will exist "two or three years from now [when] they're producing bombs at the rate of a dozen a year," a conclusion supported by arguable assumptions.

Perhaps this would ring truer if North Korea's neighbors were seeing the same threat. Unfortunately for our diplomacy, Russia, China, South Korea and Japan are not

alarmed and are utterly unwilling to support U.S. ultimatums and demands for sanctions. These are the very nations at risk (as America is not), if North Korea can produce deliverable nuclear weapons. In truth, China and South Korea are far more concerned about Japan building up a huge stock of plutonium than they are about Kim Il Sung's meager nuclear effort.

All of the evidence suggests that American citizens are being subjected to a well-orchestrated Pentagon campaign to restore North Korea to enemy status. In order to justify a budget based on their current two-war strategy, our military needs two enemies. Because North Korea spends less than 1% of what we spend for military forces, it makes a satisfactory enemy only if the specter of nuclear weapons is raised as a scare tactic. The great danger in promoting his ominous image of nuclear danger is that our words and actions may create a military crisis where none exists, an outcome which could have tragic consequences.●

FOREIGN CURRENCY REPORTS

In accordance with the appropriate provisions of law, the Secretary of the Senate herewith submits the following report(s) of standing committees of the Senate, certain joint committees of the Congress, delegations and groups, and select and special committees of the Senate, relating to expenses incurred in the performance of authorized foreign travel:

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1993

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Robert R. Franklin:									
United States	Dollar				2,677.45				2,677.45
Switzerland	Franc	1,764.75	1,205.02					1,764.75	1,205.02
Patrick C. Westhoff:									
United States	Dollar				2,299.45				2,299.45
Switzerland	Franc	1,707.90	1,134.82					1,707.90	1,134.82
Charles H. Riemenschneider:									
United States	Dollar				3,861.45				3,861.45
Japan	Yen	124,326	1,179.00					124,326	1,179.00
United States	Dollar				2,299.45				2,299.45
Switzerland	Franc	1,898	1,296.00					1,898	1,296.00
Charles D. Penry:									
United States	Dollar				3,058.45				3,058.45
Switzerland	Franc	1,764.75	1,205.02					1,764.75	1,205.02
Kent S. Hall:									
United States	Dollar				781.45				781.45
Switzerland	Franc	2,470.60	1,687.00					2,470.60	1,687.00
Total			7,706.86		14,977.70				22,684.56

PATRICK J. LEAHY,
Chairman, Committee on Agriculture, Nutrition and Forestry, Feb. 9, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1993

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Scott B. Gudes:									
Bolivia	Boliviana	476	107.45					476	107.45
Chile	Dollar		558.00		35.63		295.85		889.48
Uruguay	Dollar		370.00		375.00		381.14		1,126.14
Argentina	Dollar		1,415.00		279.25		261.25		1,955.50
Senator Patrick J. Leahy:									
El Salvador	Dollar		75.00						75.00
Timothy S. Rieser:									
El Salvador	Dollar		75.00						75.00
Eric D. Newsom:									
El Salvador	Dollar		75.00						75.00
Total			2,675.45		689.88		938.24		4,303.57

ROBERT C. BYRD,
Chairman, Committee on Appropriations, Mar. 17, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES, FOR TRAVEL FROM JULY 1, TO SEPT. 30, 1993

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator William S. Cohen:									
Malaysia	Ringgits	1,441.58	564.00					1,441.58	564.00
United States	Dollar				301.33		370.81		672.14
Singapore	Dollar	641.18	398.00					641.18	398.00
United States	Dollar				978.50		71.56		1,050.06
Hong Kong	Dollar	3,942.43	508.70					3,942.43	508.70
United States	Dollar				366.30		322.12		688.42
Michael Townsend:									
Malaysia	Ringgits	1,249.88	489.00					1,249.88	489.00
United States	Dollar				301.34		370.81		672.15
Singapore	Dollar	496.19	308.00					496.19	308.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES, FOR TRAVEL FROM JULY 1, TO SEPT. 30, 1993—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
United States	Dollar				978.50		71.57		1,050.07
Hong Kong	Dollar	4,142.50	534.50					4,142.38	534.50
United States	Dollar				366.31		322.11		688.42
Total			2,802.20		3,292.28		1,528.98		7,623.46

SAM NUNN,
Chairman, Committee on Armed Services, Feb. 16, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1993

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Jeffrey Record:									
Belgium	Franc	539	15.00					539	15.00
Germany	Mark	239	142.00			76	45.00	315	187.00
United Kingdom	Pound	289	429.00			77	52.00	366	481.00
United States	Dollar				4,028.00				4,028.00
John W. Douglass:									
United States	Dollar				3,361.85				3,361.85
Belgium	Franc	8,435	251.89					8,435	251.89
Germany	Mark	381.40	224.78					381.40	224.78
France	Franc	885	151.02					885	151.02
Senator Richard C. Shelby:									
United Kingdom	Pound	1,009.47	1,496.37					1,009.47	1,496.37
Czech Republic	Koruna	16,595.60	560.66					16,595.60	560.66
United Kingdom	Pound	354.25	524.00					354.25	524.00
France	Franc	3,171.95	534.00					3,171.96	534.00
United States	Dollar				3,259.25				3,259.25
Terence N. Lynch:									
Czech Republic	Koruna	16,595.60	560.66					16,595.60	560.66
United Kingdom	Pound	354.25	524.00					354.25	524.00
France	Franc	3,171.95	534.00					3,171.95	534.00
United States	Dollar				3,259.25				3,259.25
Thomas J. Young:									
Czech Republic	Koruna	16,595.60	560.66					16,595.60	560.66
United Kingdom	Pound	354.25	524.00					354.25	524.00
France	Franc	1,585.98	267.00					1,585.98	267.00
Patrick T. Henry:									
Czech Republic	Koruna	16,595.60	560.66					16,595.60	560.66
United States	Dollar				3,259.25				3,259.25
United Kingdom	Pound	354	524.00					354	524.00
France	Franc	3,171.96	534.00					3,171.96	534.00
Lucia M. Chavez:									
United States	Dollar				3,259.25				3,259.25
Czech Republic	Koruna	16,595.60	560.66					16,595.60	560.66
United Kingdom	Pound	354.25	524.00					354.25	524.00
France	Franc	3,171.96	534.00					3,171.96	534.00
Frank Norton:									
Czech Republic	Koruna	16,595.60	560.66					16,595.60	560.66
United Kingdom	Pound	354.25	524.00					354.25	524.00
France	Franc	3,171.96	534.00					3,171.96	534.00
Charles S. Abell:									
Czech Republic	Koruna	16,595.60	560.66					16,595.60	560.66
United Kingdom	Pound	354.25	524.00					354.25	524.00
France	Franc	3,171.96	534.00					3,171.96	534.00
Senator John W. Warner:									
United Kingdom	Pound	430.02	636.00					430.02	636.00
Italy	Dollar		80.00						80.00
Ethiopia	Dollar		180.42						180.42
Germany	Mark	238.54	140.82					238.54	140.82
Judith A. Ansley:									
United Kingdom	Pound	430.02	636.00					430.02	636.00
France	Franc	1,646.66	281.00					1,646.66	281.00
Germany	Mark	485.87	285.00					485.87	285.00
Belgium	Franc	14,171	397.50					14,171	397.50
Senator Carl Levin:									
United Kingdom	Pound	82.50	122.02					82.50	122.02
Italy	Lire	130,000	80.00					130,000	80.00
Ethiopia	Dollar		132.00						132.00
Germany	Mark	212	123.00					212	123.00
David A. Lewis:									
United Kingdom	Pound	82.50	122.02	30	44.37			112.50	166.39
France	Franc	865	148.79					865	148.79
Germany	Mark	180	106.20					180	106.20
Italy	Lire	130,000	80.00					130,000	80.00
Ethiopia	Dollar		130.00		50.00				180.00
Germany	Mark	257.90	149.63					257.90	149.63
Romie L. Brownlee:									
Italy	Dollar		83.00						83.00
Ethiopia	Dollar		131.00						131.00
Germany	Mark	280.67	165.68			40.56	24.00	321.23	189.68
Richard D. DeBobes:									
Belgium	Dollar		10.00				2.00		12.00
Italy	Dollar		86.00				2.00		89.00
Ethiopia	Dollar		140.00				3.00		143.00
Germany	Mark	273.60	165.82			46.25	25.00	319.85	190.82
Senator Sam Nunn:									
Belgium	Dollar		15.00						15.00
Germany	Dollar		35.00						35.00
England	Pound	195.3	287.05					195.30	287.05

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1993—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Total			18,722.63		20,521.22		154.00		39,397.85

SAM NUNN,
Chairman, Committee on Armed Services, Jan. 6, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1993

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Pamela Ray-Strunk:									
Switzerland	Franc	1,411.80	964.02					1,411.80	964.02
United States	Dollar				789.45				789.45
Howard Menell:									
Switzerland	Franc	1,411.80	964.02					1,411.80	964.02
United States	Dollar				789.45				789.45
Patrick Mulloy:									
Switzerland	Franc	2,652.50	1,816.03					2,652.50	1,816.03
United States	Dollar				833.00				833.00
Total			3,744.07		2,411.90				6,155.97

DONALD W. RIEGLE, Jr.
Chairman, Committee on Banking, Housing, and Urban Affairs, Jan. 13, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1993

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Samuel E. Whitehorn:									
Great Britain	Pound	716.70	1,060.00					716.70	1,060.00
United States	Dollar				818.45				818.45
Martha A. Moloney:									
Great Britain	Pound	716.70	1.060.00					716.70	1.060.00
United States	Dollar				818.45				818.45
Alan Maness:									
Great Britain	Pound	716.70	1,060.00					716.70	1,060.00
United States	Dollar				857.00				857.00
Mark Ashby:									
Switzerland	Franc	3,397.75	2,258.99					3,397.75	2,258.99
United States	Dollar				797.45				797.45
Harold J. Creel, Jr.:									
Switzerland	Franc	1,793.90	1,211.34					1,793.90	1,211.34
United States	Dollar				797.34				797.34
Kevin M. Dempsey:									
Switzerland	Franc	3,397.75	2,258.99					3,397.75	2,258.99
United States	Dollar				797.45				797.45
Senator Ernest F. Hollings:									
Bolivia	Boliviana	797.50	180.02					797.50	180.02
Chile	Dollar		708.00		35.63		295.85		1,039.48
Uruguay	Dollar		370.00		375.00		381.14		1,126.14
Argentina	Dollar		1,415.00		279.25		261.25		1,955.50
Ivan A. Schlager:									
Bolivia	Boliviana	797.50	180.02					797.50	180.02
Chile	Dollar		708.00		35.63		295.85		1,039.48
Uruguay	Dollar		370.00		375.00		381.14		1,126.14
Argentina	Dollar		1,415.00		279.25		261.25		1,955.50
Total			14,255.36		6,265.90		1,876.48		22,397.74

ERNEST F. HOLLINGS,
Chairman, Committee on Commerce, Science and Transportation, Mar. 7, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS, FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1993

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Edward Gresser:									
Hong Kong	Dollar				77.56		27.89		105.45
Total					77.56		27.89		105.45

MAX BAUCUS,
Chairman, Committee on Environment and Public Works, Nov. 15, 1993.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1993

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Peter L. Scher:									
France	Franc	7,916.55	1,335.00					7,916.55	1,335.00
United States	Dollar				763.35				763.35
Total			1,335.00		763.35				2,098.35

MAX BAUCUS,
Chairman, Committee on Environment and Public Works, Jan. 12, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FINANCE, FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1993

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Max Baucus:									
Hong Kong	Dollar				34.21		27.89		62.10
Sharon L. Peterson:									
Hong Kong	Dollar				34.21		27.89		62.10
Total					68.42		55.78		124.20

DANIEL PATRICK MOYNIHAN,
Chairman, Committee on Finance, Feb. 22, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FINANCE, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1993

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Erik O. Autor:									
Switzerland	Dollar		1,051.00						1,051.00
United States	Dollar				789.45				789.45
Erik R. Biel:									
Switzerland	Dollar		1,507.50						1,507.50
United States	Dollar				800.45				800.45
Brad G. Figel:									
Switzerland	Dollar		1,528.00						1,528.00
United States	Dollar				851.45				851.45
Deborah Lamb:									
Switzerland	Dollar		1,524.01						1,524.01
United States	Dollar				800.45				800.45
Marcia E. Miller:									
Switzerland	Dollar		3,507.49		487.53				3,995.02
United States	Dollar				398.73				398.73
Senator Daniel Patrick Moynihan:									
France	Dollar		1,124.00		75.09				1,199.09
Switzerland	Dollar		1,206.00						1,206.00
United States	Dollar				4,353.45				4,353.45
Lawrence O'Donnell:									
Switzerland	Dollar		1,356.77		24.40				1,381.17
Germany	Dollar		965.00		578.81		196.00		1,739.81
The Netherlands	Dollar		392.00		93.50				485.50
United Kingdom	Dollar		212.00		129.23				341.23
United States	Dollar				1,440.00				1,440.00
William Reinsch:									
Switzerland	Dollar		502.50						502.50
United States	Dollar				800.45				800.45
Senator John D. Rockefeller:									
Switzerland	Dollar		502.50						502.50
United States	Dollar				2,970.45				2,970.45
Total			15,378.77		14,593.44		196.00		30,168.21

DANIEL PATRICK MOYNIHAN,
Chairman, Committee on Finance, Feb. 23, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS, FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1993

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Hank Brown:									
Malaysia	Ringgits	1,359.79	532.00					1,359.79	532.00
	Dollar				301.33		370.80		672.13

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS, FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1993—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Singapore	Dollar	786.17	488.00					786.17	488.00
	Dollar				978.50		71.56		1,050.06
Hong Kong	Dollar	4,727.5	610.00					4,727.5	610.00
	Dollar				366.31		322.12		688.43
Senator Larry Pressler:									
Malaysia	Ringgits	1,441.58	564.00					1,441.58	564.00
	Dollar				301.33		370.80		672.13
Singapore	Dollar	786.17	488.00					786.17	488.00
	Dollar				978.49		71.57		1,050.06
Hong Kong	Dollar	5,099.50	658.00	2,000	258.07			7,099.50	916.07
	Dollar				366.30		322.12		688.42
Shannon Garry:									
Malaysia	Ringgits	1,441.58	564.00					1,441.58	564.00
	Dollar				301.34		370.81		672.15
Singapore	Dollar	786.17	488.00					786.17	488.00
	Dollar				978.49		71.57		1,050.06
Hong Kong	Dollar	5,099.50	658.00	2,000	258.07			7,099.50	916.07
	Dollar				366.30		322.12		688.42
William C. Triplett II:									
Malaysia	Ringgits	1,441.58	564.00					1,441.58	564.00
	Dollar				301.34		370.81		672.15
Singapore	Dollar	786.17	488.00					786.17	488.00
	Dollar				978.50		71.57		1,050.07
Hong Kong	Dollar	5,099.50	658.00	2,000	258.07			7,099.50	916.07
	Dollar				366.30		322.11		688.41
Total			6,760.00		7,358.74		3,057.96		17,176.70

CLAIBORNE PELL,
Chairman, Committee on Foreign Relations, Mar. 2, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1993

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Christopher J. Dodd:									
Mexico	Peso	12,585	404.50					12,585	404.50
Senator Frank H. Murkowski:									
Japan	Yen	126,098	1,260.00			2,000	20.00	128,098	1,280.00
Hong Kong	Dollar	2,541.90	329.00					2,541.90	329.00
Vietnam	Dollar		426.00		300.00				726.00
Thailand	Dollar		213.00				89.93		302.93
South Korea	Won	410,460	508.00					410,460	508.00
Gerylд B. Christianson:									
Denmark	Krone	6,744.50	1,023.00	400	60.00			7,144.50	1,083.00
United States	Dollar				959.00				959.00
Germany	Mark	1,300.33	759.00	100	60.00			1400.33	819.00
Czech Republic	Crown	26,603	899.00	1,835	62.00			28,438	961.00
United States	Dollar				1,011.00				1,011.00
Robert Dockery:									
Mexico	Peso	12,585	404.50					12,585	404.50
G. Garrett Grigsby:									
Haiti	Gourde	1,719	136.00					1,719	136.00
United States	Dollar				632.45				632.45
Edwin K. Hall:									
Netherlands	Guilder	1,768.20	926.00					1,768.20	926.00
United States	Dollar				3,030.85				3,030.85
Janice O'Connell:									
Mexico	Peso	12,585	404.50					12,585	404.50
Deanna Okun:									
Japan	Yen	126,098	1,260.00			2,000	20.00	128,098	1,280.00
Hong Kong	Dollar	2,541.90	329.00					2,541.90	329.00
Vietnam	Dollar		426.00		200.00				626.00
Thailand	Dollar		213.00				88.92		301.92
South Korea	Won	410,460	508.00					410.460	508.00
Steven Phillips:									
Switzerland	Franc	2,237.75	1,528.00					2,237.75	1,528.00
United States	Dollar				836.45				836.45
John Ritch:									
Denmark	Dollar		860.00						860.00
United States	Dollar				1,871.00				1,871.00
Christopher J. Walker:									
Haiti	Gourde	1,719	136.00					1,719	136.00
United States	Dollar				632.45				632.45
AMENDMENTS TO REPORT FOR FIRST QUARTER, 1993									
Senator Hank Brown:									
Croatia	Dollar						623.67		623.67
Egypt	Dollar						5.47		5.47
Senator James M. Jeffords:									
Croatia	Dollar						623.67		623.67
Egypt	Dollar						5.47		5.47
Laurie S. Heim:									
Croatia	Dollar						623.67		623.67
Egypt	Dollar						5.47		5.47
Carter Pilcher:									
Croatia	Dollar						623.67		623.67
Egypt	Dollar						5.47		5.47
AMENDMENTS TO REPORT FOR SECOND QUARTER, 1993									
Senator Larry Pressler:									
Senegal	Franc	67,431	247.00				38.30	67,431	285.30

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1993—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Cameroon	Franc	89,683	330.00					89,683	330.00
Kenya	Dollar		340.00				272.78		612.78
Uganda	Dollar		244.00						244.00
Central African Republic	Franc	60,525	225.00					60,525	225.00
Nigeria	Dollar		150.00						150.00
Thomas J. Callahan:									
Senegal	Franc	67,431	247.00				38.30	67,431	285.30
Cameroon	Franc	123,575	456.00					123,575	456.00
Kenya	Dollar		340.00				272.78		612.78
Uganda	Dollar		244.00						244.00
Central African Republic	Franc	171,045	630.00					171,045	630.00
Nigeria	Dollar		150.00						150.00
Robert Hoffman:									
Senegal	Franc	67,431	247.00				38.30	67,431	285.30
Cameroon	Franc	123,575	456.00					123,575	456.00
Kenya	Dollar		340.00				272.78		612.78
Uganda	Dollar		244.00						244.00
Central African Republic	Franc	171,045	630.00					171,045	630.00
Nigeria	Dollar		150.00						150.00
Total			18,622.50		9,655.20		3,668.65		31,946.35

CLAIBORNE PELL,
Chairman, Committee on Foreign Relations, Mar. 2, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b). COMMITTEE ON THE JUDICIARY, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1993

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Dennis K. Burke:									
Germany	Mark		225.00						225.00
United States	Dollar				801.15				801.15
Christopher T. Brown:									
Germany	Mark		225.00						225.00
United States	Dollar				801.15				801.15
Total			450.00		1,602.30				2,052.30

JOSEPH R. BIDEN Jr.,
Chairman, Committee on the Judiciary, Mar. 11, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON THE JUDICIARY, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1993

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Darrell Panethiere:									
Switzerland	Franc	2,241.90	1,521.00					2,241.90	1,521.00
United States	Dollar				1,891.55				1,891.55
Total			1,521.00		1,891.55				3,412.55

JOSEPH R. BIDEN, Jr.,
Chairman, Committee on the Judiciary, Oct. 29, 1993.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON THE JUDICIARY, FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1993

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Gare Smith:									
Thailand	Baht	26,052.25	1,042.09				301.95		1,344.04
Cambodia	Dollar		864.00		86.00				950.00
United States	Dollar				4,448.45				4,448.45
Total			1,906.09		4,534.45		301.95		6,742.49

JOSEPH R. BIDEN, Jr.,
Chairman, Committee on the Judiciary, Nov., 2, 1993.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), SELECT COMMITTEE ON INTELLIGENCE, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1993

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Charles Battaglia			1,544.00		3,577.00				5,121.00
William Griffies			1,544.00		3,577.00				5,121.00
Nancy Czarcki			1,683.00						1,683.00
L. Britt Snider			1,683.00						1,683.00
Timothy Carlsgaard			1,683.00						1,683.00
Christopher Straub			1,683.00						1,683.00
Charles Battaglia			1,683.00						1,683.00
Al Cumming			1,683.00						1,683.00
Senator Dennis DeConcini			1,683.00						1,683.00
Senator Bob Graham			1,683.00						1,683.00
Mary Hawkins			1,683.00						1,683.00
Richard Arenberg			1,683.00						1,683.00
Senator Bob Graham			115.96		632.45				748.41
Al Cumming			132.96		632.45				765.41
Codel DeConcini							5,693.99		5,693.99
Total			20,166.92		8,418.90		5,693.99		34,279.81

Note.—Delegation expenses include direct payments and reimbursements to the Department of State and to the Department of Defense under authority of Sec. 502(b) of the Mutual Security Act of 1954 as amended by Sec. 22 of P.L. 95–384 and S. Res. 179, agreed to May 25, 1977.

DENNIS DeCONCINI,
Chairman, Select Committee on Intelligence, Jan. 14, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), JOINT ECONOMIC COMMITTEE, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1993

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Daniel Bob:									
United States	Dollar				1,383.45				1,383.45
Philippines	Peso	15,178.48	528.00					15,178.48	528.00
Total			528.00		1,383.45				1,911.45

DAVID R. OBEY,
Chairman, Joint Economic Committee, Jan. 11, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMISSION ON SECURITY AND COOPERATION IN EUROPE FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1993

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Orest Deychakiwsky:									
United States	Dollar				1,779.45				1,779.45
Russia	Dollar		1,950.00						1,950.00
David Evans:									
United States	Dollar				3,140.95				3,140.95
Poland	Dollar		2,684.00						2,684.00
United States	Dollar				3,357.45				3,357.45
Russia	Dollar		1,950.00				35.00		1,985.00
John Finerty:									
United States	Dollar				3,361.25				3,361.25
Lithuania	Dollar		330.00						330.00
Russia	Dollar		1,950.00						1,950.00
Jane Fisher:									
Egypt	Pound	756	224.00					756	224.00
Jordan	Dinar	99	144.00					99	144.00
Syria	Dollar		412.00				63.50		475.50
Israel	Shekel	300	903.00					300	903.00
Heather Hurlburt:									
United States	Dollar				1,780.85				1,780.85
Austria	Schilling	51,841.60	4,470.00			135	11.54	51,976.60	4,481.54
Czech Republic	Dollar		690.00				311.41		1,001.41
Poland	Dollar		4,636.00						4,636.00
United States	Dollar				3,364.65				3,364.65
Austria	Schilling	48,153.60	4,224.00					48,153.60	4,224.00
Italy	Lire	2,698,224	1,608.00					2,698,224	1,608.00
Russia	Dollar		2,560.00						2,560.00
Austria	Schilling	18,057.60	1,584.00					18,057.60	1,584.00
Michael Ochs:									
United States	Dollar				3,244.35				3,244.35
Russia	Dollar		1,950.00						1,950.00
James Ridge, Jr.:									
United States	Dollar				1,139.65				1,139.65
Poland	Dollar		1,175.00						1,175.00
Victoria Showalter:									
United States	Dollar				2,882.95				2,882.95
Poland	Dollar		4,880.00				62.55		4,942.55
Samuel Wise:									
United States	Dollar				1,420.95				1,420.95
Cech Republic	Dollar		690.00						690.00
Austria	Schilling	6,595.20	576.00					6,595.20	576.00
Poland	Dollar		1,464.00						1,464.00
United States	Dollar				1,553.65				1,553.65
Poland	Dollar		1,175.00				94.33		1,269.33
United States	Dollar				3,053.15				3,053.15

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMISSION ON SECURITY AND COOPERATION IN EUROPE FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1993—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Italy	Lire	2,698,224	1,608.00					2,698,224	1,608.00
Total			43,837.00		30,079.30		578.33		74,494.63

DENNIS DeCONCINI,
Chairman, Commission on Security and Cooperation in Europe, Jan. 31, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE MAJORITY AND THE MINORITY LEADER, JULY 2–12, 1993.

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Patrick J. Leahy:									
Russia	Dollar		2,089.00						2,089.00
Poland	Zloty	3,766,400	214.00					3,766,400	214.00
Ireland	Pound	382.54	544.00					382.54	544.00
Senator Thad Cochran:									
Russia	Dollar		2,089.00						2,089.00
Poland	Zloty	3,766,400	214.00					3,766,400	214.00
Ireland	Pound	382.54	544.00					382.54	544.00
Senator Mitch McConnell:									
Russia	Dollar		1,459.00						1,459.00
Senator Thomas A. Daschle:									
Russia	Dollar		2,089.00						2,089.00
Poland	Zloty	3,766,400	214.00					3,766,400	214.00
Ireland	Pound	382.54	544.00					382.54	544.00
Walter J. Stewart:									
Russia	Dollar		2,089.00						2,089.00
Poland	Zloty	3,766,400	214.00					3,766,400	214.00
Walter J. Stewart:									
Ireland	Pound	382.54	544.00					382.54	544.00
Mark Keenum:									
Russia	Dollar		2,089.00						2,089.00
Poland	Zloty	3,766,400	214.00					3,766,400	214.00
Ireland	Pound	382.54	544.00					382.54	544.00
Eric Newsom:									
Russia	Dollar		1,941.00						1,941.00
Poland	Zloty	3,766,400	214.00					3,766,400	214.00
Ireland	Pound	299.16	424.00					299.16	424.00
Jan Paulk:									
Russia	Dollar		2,089.00						2,089.00
Poland	Zloty	3,766,400	214.00					3,766,400	214.00
Ireland	Pound	382.54	544.00					382.54	544.00
Charles Riemenschneider:									
Russia	Dollar		1,989.00						1,989.00
Poland	Zloty	3,766,400	214.00					3,766,400	214.00
Ireland	Pound	382.54	544.00					382.54	544.00
Delegation Expenses:[1]									
Russia							12,970.95		12,970.95
Poland							6,125.02		6,125.02
Ireland							10,029.38		10,029.38
Total			23,867.00				29,125.35		52,992.35

[1]Delegation expenses include direct payments and reimbursements to the Department of State and to the Department of Defense under authority of Sec. 502(b) of the Mutual Security Act of 1954 as amended by Sec. 22 of P.L. 95–384, and S. Res. 179, agreed to May 25, 1977.

GEORGE J. MITCHELL, ROBERT J. DOLE,
Majority and Minority Leaders, Nov. 9, 1993.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE REPUBLICAN LEADER, FROM OCT. 1 TO DEC. 31, 1993

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Arlen Specter:									
Russia	Dollar		296.00						296.00
Israel	Dollar		514.57						514.57
Jordan	Diner	87	100.00					87	100.00
Syria	Dollar		246.62						246.62
Egypt	Pound	645	191.17					645	191.17
Senator Robert F. Bennett:									
Russia	Dollar		320.00						320.00
Senator Charles E. Grassley:									
Egypt	Pound	735.75	218.00					735.75	218.00
Jordan	Dinar	99	144.00					99	144.00
Syria	Dollar		317.00						317.00
Israel	Shekal	300	103.00					300	103.00
	Dollar		496.11						496.11
Total			2,946.47						2,946.47

ROBERT J. DOLE,
Republican Leader, Mar. 10, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE REPUBLICAN LEADER, FROM JULY 1 TO SEPT. 30, 1993

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Christopher S. Bond:									
Japan	Yen	16,708	160.50					16,708	160.50
Singapore	Dollar		366.00						366.00
Malaysia	Dollar		376.00						376.00
United States	Dollar				6,554.45				6,554.45
Brent Franzel:									
Japan	Yen	14,938	143.50					14,938	143.50
Singapore	Dollar		366.00						366.00
Malaysia	Dollar		376.00						376.00
United States	Dollar				6,341.45				6,341.45
Margo Carlisle:									
Malaysia	Ringgits	1,441.58	564.00					1,441.58	564.00
United States	Dollar				301.34		370.81		672.15
Singapore	Dollar	625.07	388.00					625.07	388.00
United States	Dollar			978.50		71.57			1,050.07
Margo Carlisle:									
Hong Kong	Dollar	3,464.25	447.00					3,464.25	447.00
United States	Dollar				366.31		322.12		688.42
Jan Paulk:									
Malaysia	Ringgits	1,441.58	564.00					1,441.58	564.00
United States	Dollar				301.34		370.81		672.15
Singapore	Dollar	729.78	453.00					729.78	453.00
United States	Dollar				978.50		71.57		1,050.07
Hong Kong	Dollar	4,169.5	538.00					4,169.5	538.00
United States	dollar				366.31		322.11		688.42
Total			4,742.00		16,188.20		1,528.99		22,459.19

ROBERT J. DOLE,
Republican Leader, Mar. 10, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL BY THE REPUBLICAN LEADER, FROM APRIL 1 TO JUNE 30, 1993

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Arlen Specter:									
Kenya	Dollar						272.78		272.78
Senegal	Franc					10,399	38.80	10,399	38.80
Barry Caldwell:									
Kenya	Dollar						272.78		272.78
Senegal	Franc					10,399	38.80	10,399	38.80
Total							623.16		623.16

ROBERT J. DOLE,
Republican Leader, Mar. 10, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), TRAVEL AUTHORIZED BY REPUBLICAN LEADER FROM JAN. 1 TO MARCH 31, 1993

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Arlen Specter:									
Croatia	Dollar						623.67		623.67
Egypt	Pound					18.32	5.47	18.32	5.47
Charles Battaglia:									
Croatia	Dollar						623.67		623.67
Egypt	Pound					18.32	5.47	18.32	5.47
Total							1,258.28		1,258.28

ROBERT J. DOLE,
Republican Leader, Mar. 10, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE MAJORITY LEADER, FROM OCT. 1 TO DEC. 31, 1993

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Christopher C. Straub:									
Jordan	Dollar		65.00						65.00
Walter J. Stewart:									
Bolivia	Boliviana	797.50	180.02					797.50	180.02

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE MAJORITY LEADER, FROM OCT. 1 TO DEC. 31, 1993—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Chile	Dollar		708.00		35.63		295.85		1,039.48
Uruguay	Dollar		370.00		375.00		381.14		1,126.14
Argentina			1,415.00		279.25		261.25		1,955.50
Total			2,738.02		689.88		938.24		4,366.14

GEORGE J. MITCHELL,
Majority Leader, Mar. 9, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE PRESIDENT PRO TEMPORE, FROM OCT. 1 TO DEC. 31, 1993

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Melvin G. Dubee:									
United States	Dollar		32.00		1,065.15				1,097.15
Germany	Dollar		99.00						99.00
Latvia	Dollar		399.20						399.20
Poland	Dollar		560.00						560.00
Total			1,090.20		1,065.15				2,155.35

ROBERT C. BYRD,
President Pro Tempore, Mar. 17, 1994.

TRIBUTE TO FORT CAMPBELL

• Mr. MCCONNELL. Mr. President, I rise today to congratulate Kentucky's Fort Campbell on winning the title of "Best Environmental Quality Program in the Department of Defense."

The prestigious environmental quality award is the culmination of 2 years of work to develop an aggressive, viable environmental program. Defense Department judges found that Fort Campbell exceeded requirements in all categories, from asbestos to noise pollution, and from hazardous waste to environmental research and education.

The Department of Defense took specific notice of Fort Campbell's strong command involvement in the post's environmental program. Among their most impressive accomplishments is the Environmental Quality Officer Program, designed by Mr. Dewayne Smith, the Chief of Fort Campbell's Environmental Division. Together with Lt. Col. Hal Cranor, Director of Public Works, Mr. Smith has successfully implemented this program which expands the Environmental Division's manpower base by working with environmental liaisons, which have been assigned in each unit or activity on post.

In being nominated by the Army to receive this award, the Army recognized the tremendous improvement and turn around Fort Campbell has made in the past 2 years. Having been determined to be best in the world, the Department will use Fort Campbell as an example of environmental excellence to other installations.

As Earth Day ceremonies are getting underway nationwide, I am pleased that the Department of Defense has recognized a Kentucky installation as its environmental best. Fort Campbell's success in its program is linked to a strong commitment to a comprehensive environmental agenda. Again, congratulations to Lt. Col. Cranor, Mr. Smith, the fine staff of the environmental division, and Fort Campbell on this fine accomplishment.•

WEST VIRGINIA HUMANITIES COUNCIL

• Mr. ROCKEFELLER. Mr. President, a greater understanding and appreciation of the humanities is essential to the enrichment of each of our lives. In West Virginia, for the past 20 years the West Virginia Humanities Council has done a great deal to advance the humanities in our State. I am proud to commend them on this important anniversary.

The West Virginia Humanities Council is a nonprofit, private organization that was established in 1974 as an affiliate of the National Endowment for the Humanities. It originally awarded grants for specific public policy programs. However, in the last 20 years, the council has greatly expanded its services and now takes direct action in planning and conducting programs to enrich humanities in the State. In addition to the Federal grants, the council now receive over one-third of its funding from the State government and businesses and individuals in the State. Its purpose has expanded to bring the humanities to every sector of the State's population and to reach every West Virginia citizen. The council also plays a large role in enriching the quality of education in the West Virginia public schools.

In celebration of its anniversary, the council is beginning a new program, the West Virginia Circuit Writers, in which West Virginia writers will give presentations of their work in high schools and communities throughout the State. Outstanding teachers will then be chosen to attend a seminar where curriculum will be developed in order to help teachers use the local writings in the classrooms and to make the local works more accessible to students.

This program is built on the council effort to promote the humanities among teachers and public schools in West Virginia. In past years, the West Virginia Humanities Council has raised over $173,000 for books for public school classrooms, trained teachers for great books discussions, developed curriculum to supplement West Virginia history teachings, and had numerous summer seminars to continue the education of teachers.

The efforts of the West Virginia Humanities Council are not confined to the classroom alone. Other efforts include working to provide the opportunity for rural areas to host traveling museum exhibits, working as partners in the West Virginia history film project, and developing books that are appropriate and interesting for illiterate adults who are beginning to learn to read. It is even more inspiring to re-

alize that the council has achieved all of these successes with a very limited staff and budget.

It is with pride that I call attention to the West Virginia Humanities Council and the work that they have done to improve the lives of West Virginians. In the year of their 20th anniversary, I am proud to pay tribute to its many accomplishments and wish it continued success for the future.•

IN HONOR OF JIM POSEWITZ

• Mr. BAUCUS. Mr. President, today I rise to commend Jim Posewitz, one of Montana's leading conservationists, on his outstanding work and dedication to the environment.

Jim retired July 30, of last year, after working for 32 years as a biologist for the State Department of Fish, Wildlife, and Parks, including 15 years as head of its ecological program.

His efforts have helped Montana maintain its incredible natural beauty and have allowed Americans to enjoy the recreational opportunities it offers. It is through efforts from people like this that Montana is truly "The Last Best Place."

Although Jim has retired from State government, he still contributes his skill and knowledge working on conservation and wildlife projects. Such tireless dedication to a worthy cause underlines his commitment to the environment and to making this world a better place to live.

Recently, the Montana Wildlife Federation's board of directors rewarded Jim's efforts by establishing an endowment in his name. The earnings from this endowment will go to advocate policies that lead to the preservation of wildlife and habitat for future generations.

Such an honor could not go to a more dedicated, deserving and accomplished person. I congratulate Jim on his retirement and I wish him success in his future endeavors.•

RETIREMENT OF ADM. FRANK KELSO

• Mr. BROWN. Mr. President, Frank Kelso has served the United States as an officer in the U.S. Navy. While he has held the permanent rank of two-star admiral since 1980, since 1986 he has continuously been in positions which carry the rank of four-star admiral. Under statute, persons who retire while holding positions with four-star rank may retire at that rank upon the recommendation of the President and the consent of the Senate. Prior to the Tailhook scandal, Admiral Kelso could have voluntarily retired and would almost certainly have done so at the four-star admiral level given his performance and accomplishments in three and a half decades of military service.

In regard to Tailhook, there are established proceedings for officers to be removed because of substandard performance of duty or to be court-martialled for violation of laws and military standards of conduct. No removal proceedings or charges triggering a court-martial were ever instituted against Admiral Kelso in regard to Tailhook or the subsequent investigation or legal proceedings arising from it.

Statute provides that no officer can be retired for misconduct for which court martial proceedings would be appropriate. Officers considered for removal may choose to voluntarily retire at the rank and with the pay for which they are otherwise eligible. If removal proceedings has been instituted, Admiral Kelso could have chosen the same course he has pursued—to voluntarily retire at the rank and eligible for retirement benefits of his last position, four-star admiral.

Denying Admiral Kelso the rank and benefits in retirement to which he was otherwise entitled, without a trial or due process is not appropriate.•

TRIBUTE TO ROOSEVELT CHIN—LOUISVILLIAN GIVES HIS ALL TO HELP OTHERS

• Mr. MCCONNELL. Mr. President, I rise today to pay tribute to a fellow Louisvillian for his outstanding service to the youth of his community. Mr. Roosevelt Chin has spent his entire life as an employee of Cabbage Patch Settlement House, an organization dedicated to helping children and adults deal with the problems that result from poverty and broken homes.

At a time when Americans list crime as one of their greatest worries, Roosevelt Chin is doing something about it. In conjunction with Cabbage Patch, which was founded 84 years ago, he helps young people work through the difficult times in their lives. By teaching self-respect and dignity, Mr. Chin has turned countless people from troubled to valuable, contributing members of society.

Mr. Chin is much more than counselor or adviser Mr. President, he is a friend to everyone he works with. He has turned down opportunities to try other jobs and instead has worked with the Cabbage Patch House for 42 years. What is the reward for this lifetime of service? Mr. Chin says it best when he points out that he has satisfaction in contributing significantly to his community and that he feels like the most blessed person around.

The families Mr. Chin has helped are far too many to mention, but all who have come into contact with this compassionate and thoughtful gentleman know how much he has touched the lives of those he has worked with. I urge my colleagues to join me in honoring Roosevelt Chin as someone who has truly made, and continues to make, a difference. In addition, I ask that an article from the April 11, Courier Journal be inserted into the RECORD at this point.

The article follows:

[From the Courier Journal, April 11, 1994]

'MIGHTY MOTIVATOR'

(By Todd Murphy)

Upward mobility.

Roosevelt Chin smiles at the thought.

Most of his family—spread across the United States now—would be considered upwardly mobile, Chin says. Most of his former college and graduate school classmates have moved on and up, too, he says. All have asked him the questions that come from a world that gauges success by jobs and titles and prestige and money.

What is he still doing at the Cabbage Patch? What has he done with his life?

Chin—who just turned 60, but looks 10 years younger—sits at a table in the "teen room" at the Cabbage Patch Settlement House in Old Louisville. American Indian masks made by children adorn the walls. Screams and shouts of playing children echo from the gym next door.

Chin smiles again. He can talk not only about certain children, but about their parents when they were children running around the same gym. He has a master's degree in social work and has studied at a respected art institute in New York. But this place is his life—has been for 42 years. And he has no regrets.

"The decision was made back then," he says, referring to the point years ago when he decided to stay. "And I never look back."

The Cabbage Patch, now on South Sixth Street, was founded 84 years ago by Louise Marshall, the daughter of a prominent Louisville lawyer and the great-great-granddaughter of former U.S. Supreme Court Justice John Marshall. It serves all ages, but focuses on neighborhood children—many of whom come from poverty and broken homes.

And for 42 years, those children have become friends with "Mr. Chin," or just "Chin." They've played on his basketball and football teams. They've gone on his camping trips. They've built plastic model cars in his model-car classes, painted pictures in his art classes, pieced together puzzles as members of his "Fun Club."

But Chin's relationship with the place, and with its children, goes far beyond that, say the people who have worked with him and the children who've been touched by him.

A man whose parents couldn't speak English when they came from China to this country 70 years ago, Chin has taught children—most of them white or black—about life. About telling the truth, about doing their best and about savoring their worth—no matter what the world seems to assume about them.

"He's had an amazing ability to take the (children) we're just about ready to give up on, and save them," says Rod Napier, another longtime Cabbage Patch employee. "He works on their self-esteem. They feel important when they're around him."

"You might have had the worst attitude in the world. But if Chin came into a room, it changed," says Jamie Huff, whose father left the family when he was 5 and who became friends with Chin at the Cabbage Patch 15 years ago. Huff is now a senior at Western Kentucky University.

And Chin's sacrifices can change the most hardened child, those who've worked with him say.

Children whose families did not have cars trained to get their driver's licenses in Chin's aging cars.

He's taken Cabbage Patch children on vacations, paying for everything. "He took us to Florida one year," Huff says, "I never thought in my lifetime I'd see an ocean. I never thought I'd see outside Louisville. But he took us to see an ocean."

He's bought cars for some of his Cabbage Patch friends as they were leaving for college, Napier says. And he's helped pay college costs for a few, including Huff for a semester.

Chin says his generosity is simple. "Following an unspoken commitment to the example Marshall set, Chin has never married. "I'm married to the Cabbage Patch," he says.

And with no immediate family, he spends little money. He adds: "I guess when I die, all my money is going to the Cabbage Patch anyway, . . . I'm just doing it a little earlier."

Chin also notes that other longtime, Cabbage Patch staffers like Napier and Charles Dietsch do many of the same things.

The work of Chin's life could not have been farther from the work of his grandfather. He was a don in the Chinese mafia in Chicago in the 1920s, fighting with Al Capone for power over the city's underworld.

After his grandfather had won a restaurant in Louisville "in some type of gambling deal"—and gave it to Chin's parents as a wedding gift—The Chins moved to Louisville to run it.

Growing up, Chin remembers enduring racial taunts and Japanese-directed racial accusations that "you people" had started World War II.

He remembers he and his siblings wearing badges that told people they were not Japanese, but Chinese—and therefore not subject to internment camps.

But he has good childhood memories too, including when he was 13, moving to a house near Hill Street and finding a place to play basketball—the Cabbage Patch Settlement House.

By his late teens, he was working there for Louise Marshall—"probably the most unusual person on the face of the Earth. . . . Everybody was ready to die for her." After going off to art school, then getting an interview to be a designer at General Electric, Chin canceled it. "That was the turning point." he says. "I couldn't leave the Cabbage Patch."

He hasn't left since, and has no plans to retire soon.

He still feels a bit sheepish when he drives up to a Chin family reunion in his rusty 1984 van. "I putt-putt up there, and they've got these nice houses and fancy cars," he says.

"But they don't know what I have that makes up for the things I go without.

"I have satisfaction. I have excitment. . . . When I wake up and go to work, I don't feel like I'm going to work.

"I'm the most blessed person around."

So what has Roosevelt Chin done with his life?

To those who know him, the answer is; about as much as any human being could.

"I don't have enough adjectives to say for this man," Huff says. "If I can give back to the community half of what he has done, then I will have lived a successful life."

ROOSEVELT CHIN—COORDINATOR OF SPECIAL PROGRAMS

Mission: Works with Cabbage Patch Settlement House, a Christian service ministry that tries to help children and adults deal with the problems that result from poverty and broken homes.

Years performing service: Chin has worked there 42 years. (Cabbage Patch has been in existence for 84 years)

Source of funds: Contributions from individuals, churches, businesses, foundations, and service organizations. By choice, it does not accept support from government or from the Metro United Way.

To lend a hand: The Cabbage Patch Settlement House 1413 South Sixth Street Louisville, Ky. 40208 634-0811, 634-0966.●

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. HEFLIN. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations:

Calendar No. 782, Calendar No. 811, Calendar No. 825, Calendar No. 827.

I further ask unanimous consent that the nominees be confirmed, en bloc, and any statements appear in the RECORD as if read, and that upon confirmation, the motion to reconsider be laid on the table, en bloc, and that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations, considered and confirmed, en bloc, are as follows:

EXECUTIVE OFFICE OF THE PRESIDENT

William Booth Gardner, of Washington, to be Deputy U.S. Trade Representative, with the rank of Ambassador.

DEPARTMENT OF COMMERCE

Raymond E. Vickery, Jr., of Virginia, to be an Assistant Secretary of Commerce.

DEPARTMENT OF DEFENSE

Sara E. Lister, District of Columbia, to be an Assistant Secretary of the Army.

Gilbert F. Decker, of California, to be an Assistant Secretary of the Army.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

EXTENDING ELIGIBILITY FOR BURIAL IN NATIONAL CEMETERIES

Mr. HEFLIN. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on a bill (H.R. 821) to amend title 38, United States Code, to extend eligibility for burial in national cemeteries to persons who have 20 years of service creditable for retired pay as members of a Reserve component of the Armed Forces.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 821) entitled "An Act to amend title 38, United States Code, to extend eligibility for burial in national cemeteries to persons who have 20 years of service creditable for retired pay as members of a reserve component of the Armed Forces", with the following amendments:

In lieu of the matter inserted by said amendment, insert:

SECTION 1. ELIGIBILITY OF CERTAIN RESERVISTS AND DEPENDENTS FOR BURIAL IN NATIONAL CEMETERIES.

(a) RESERVISTS.—Section 2402 of title 38, United States Code, is amended by inserting after paragraph (6) the following new paragraph (7):

"(7) Any person who at the time of death was entitled to retired pay under chapter 67 of title 10 or would have been entitled to retired pay under that chapter but for the fact that the person was under 60 years of age.".

(b) DEPENDENTS.—Paragraph (5) of such section is amended by inserting "and paragraph (7)" after "paragraphs (1) through (4)".

Amend the title so as to read: "An Act to amend title 38, United States Code, to extend eligibility for burial in national cemeteries to persons who have 20 years of service creditable for retired pay as members of a reserve component of the Armed Forces and to their dependents.".

Mr. HEFLIN. I ask unanimous consent that the Senate concur, en bloc, in the amendments of the House and the motion to reconsider, en bloc, be laid upon the table; that any statements relative to this item appear in the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROCKEFELLER. Mr. President, as chairman of the Committee on Veterans' Affairs, I am delighted to support the final passage of H.R. 821, a bill to extend eligibility for burial in national cemeteries to those who served 20 years in the National Guard or Reserve components of the Armed Forces, and to their families.

Mr. President, this bill is derived from S. 1128, introduced by my good friend and colleague on the committee, Senator AKAKA, who has been a longstanding advocate for reservists. The language of Senator AKAKA's bill, with some minor changes, was incorporated into an original bill, S. 1620, which was reported by the committee on November 4, 1993. The Senate passed the text of S. 1620 on November 11, 1993, as a substitute amendment to H.R. 821. The compromise agreement that is before the Senate today is essentially the same bill that we passed last year, with only minor drafting and conforming changes.

Mr. President, I ask unanimous consent that a joint explanatory statement on H.R. 821, developed by the two Committees on Veterans' Affairs, be printed in the RECORD following my remarks. This joint statement, which describes the compromise agreement on H.R. 821, was previously inserted in the RECORD by the chairman of the House Committee on Veterans' Affairs, Representative G.V. (SONNY) MONTGOMERY, during House debate on Monday, April 18.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JOINT EXPLANATORY STATEMENT OF H.R. 821, A BILL TO EXTEND ELIGIBILITY FOR BURIAL IN NATIONAL CEMETERIES TO RESERVISTS AND THEIR DEPENDENTS

This document explains the provisions and legislative history of measures relating to eligibility for burial in national cemeteries for individuals who have served 20 years in a reserve component and for their dependents. These provisions have been passed by the Senate and House of Representatives, agreed upon by the Senate and House Committees on Veterans' Affairs, and are offered as a proposed House amendment to the Senate amendment to H.R. 821.

The measures referred to above are H.R. 821 as passed by the House on August 2, 1993 (hereinafter referred to as the "House bill"), and the text of S. 1620 as reported (without written report) as an original bill on November 4, 1993, and as passed by the Senate on November 11, 1993, as a substitute amendment to H.R. 821 (hereinafter referred to as the "Senate amendment"). The Senate amendment was derived from S. 1128, which was introduced on July 17, 1993.

The differences between the House bill and the Senate amendment are noted below, except for clerical corrections, conforming changes made necessary for the compromise agreement, and minor drafting, technical, and clarifying changes.

Current law: Under current law, the only members of Reserve components of the Armed Forces who are eligible for burial in a national cemetery are those who:

1. Die under honorable conditions while hospitalized or undergoing treatment at the expense of the United States for injury or disease contracted or incurred under honorable conditions while such member is performing active duty for training, inactive duty training, or traveling to and from such duty;

2. Are disabled or die from disease or injury incurred or aggravated in line of duty during or enroute to or from active duty for training; and

3. Are disabled or die from injury (but not disease) incurred or aggravated in line of duty during or enroute to or from inactive duty training.

House bill: The House bill would grant eligibility for burial in a national cemetery to any person who at the time of death was entitled to retirement pay for service in a reserve component of the Armed Forces or would have been entitled to retirement pay but for the fact that the person was under 60 years old.

Senate amendment: The Senate amendment is substantively similar to the House bill, but adds a provision granting eligibility for burial in national cemeteries to the spouses and dependents of eligible reservists.

Compromise agreement: The compromise agreement follows the Senate amendment with some minor technical and conforming changes.

Mr. AKAKA. Mr. President, I rise in support of the House amendment to the Senate amendment to H.R 821, legislation that would extend eligibility for burial in the national cemetery system, which includes the 59 open national cemeteries operated by the Department of Veterans Affairs [VA] and the 40 State veterans cemeteries that conform to VA eligibility standards, to members of the National Guard and Reserve who have served a minimum of 20 years and are eligible for retirement pay and their dependents.

Mr. President, the Senate approved H.R. 821 in substantially the same form late last year, but because certain technical conforming amendments were inadvertently left out of the Senate-passed bill, the House delayed final action on the measure. The measure we are considering today contains these minor technical corrections.

H.R. 821 is derived from legislation I introduced last year, S. 1128, that was cosponsored by Senators CRAIG, DASCHLE, DECONCINI, DORGAN, FORD, HATCH, HEFLIN, INOUYE, JEFFORDS, KERREY, PRESSLER, ROBB, and SHELBY. S. 1128, in turn, was based on original legislation I introduced in the 102d Congress, S. 2961, that called for providing headstones, burial flags, as well as the interment benefit to career reservists. Congress managed to approve the headstone and burial flag provisions of S. 2961 in 1992, but deferred consideration of the interment benefit until the current Congress.

Mr. President, an estimated 235,000 reservists gallantly served in the Persian Gulf war. Their outstanding performance alongside active duty soldiers amply fulfilled the aim of our Total Force policy. The desert conflict foreshadowed the military's post-cold-war trend toward greater reliance on the Reserve component. Indeed, today's Guard and Reserve train to the same standards as their active duty counterparts and are increasingly undertaking missions for the active duty military. In effect, today's reservists are continuous members of the total force, indistinguishable in performance from the so-called regular military.

H.R. 821 recognizes the growing importance of the Guard and Reserve by extending to the most dedicated among them, the career reservists who have devoted at least 20 years of their lives to our defense, the final and most basic right of burial in a national cemetery. H.R. 821 also extends burial eligibility to their spouses and dependents.

This legislation will not substantially affect VA's ability to provide burials benefits to other veterans. According to my best estimates, the bill will result in between 365 to 828 additional burials annually—approximately 1 percent or less of VA's current annual interment rate of nearly 70,000 for burials in national cemeteries operated by the Department. Even this figure is probably overstated, because a significant number of eligible reservists is likely to choose burial in State veterans cemeteries, which is also authorized under this measure.

In addition, given that there are some 608,000 developed gravesites available at the 59 open national cemeteries and the 40 State veterans cemeteries which conform to VA eligibility criteria—with a potential of 2.7 million more spaces if undeveloped land is developed at these facilities—it is clear that this legislation will have a negligible effect on nonreservist veterans.

This bill has the support of all the major veterans organizations as well as the Military Coalition, which represents 24 military advocacy organizations. According to the Congressional Budget Office, H.R. 821 is expected to cost less than $500,000 a year, and thus has no pay-as-you-go implications.

I urge my colleagues to support this legislation. The least we can do to recognize the contributions of career reservists, the backbone of the reserves, is to provide them with an honored resting place in our national cemetery system, alongside others who have worn the uniform.

In closing, Mr. President, I would like to extend my appreciation to Chairman ROCKEFELLER and the staff of the Veterans' Affairs Committee for their assistance in facilitating enactment of this measure. I would especially like to recognize the help of Pete Dougherty, a former committee staffer, in developing and promoting this legislation.

BYRON WHITE UNITED STATES COURTHOUSE ACT OF 1994

Mr. HEFLIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 410, H.R. 3693, a bill to designate the U.S. Courthouse under construction in Denver, CO, as the "Byron White U.S. Courthouse," that the bill be deemed read a third time, passed and the motion to reconsider laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 3693) was deemed read a third time and passed.

SCHOOL-TO-WORK OPPORTUNITIES ACT—CONFERENCE REPORT

Mr. HEFLIN. Mr. President, I ask unanimous consent that upon disposition of S. 540, the Bankruptcy Amendments Act, that the Senate then proceed to the conference report accompanying H.R. 2884, the School-to-Work Opportunities Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEFLIN. Mr. President, I now ask unanimous consent that it be in order to request the yeas and nays on adoption of the conference report accompanying H.R. 2884.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEFLIN. I now ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

ORDERS FOR TOMORROW

Mr. HEFLIN. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m., Thursday, April 21; that following the prayer, the Journal of proceedings be deemed approved to date and the time for the two leaders reserved for their use later in the day; that there then be a period for morning business, not to extend beyond 10:30 a.m., with Senators permitted to speak therein for up to 5 minutes each, with the first 30 minutes of morning business under the control of Senator SIMPSON or his designee, and the next 30 minutes under the control of Senator KENNEDY or his designee; that thereafter Senators DORGAN, HATCH, and THURMOND be recognized for up to 10 minutes each; and that at 10:30 a.m., the Senate resume consideration of Calendar No. 251, S. 540, the Bankruptcy Amendments Act of 1993.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9 A.M. TOMORROW

Mr. HEFLIN. Mr. President, if there is no further business to come before the Senate today, and if no other Senator is seeking recognition, I now ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 7:12 p.m., recessed until Thursday, April 21, 1994, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate April 20, 1994:

DEPARTMENT OF STATE

JOSEPH R. PAOLINO, JR., OF RHODE ISLAND, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF MALTA.

CONFIRMATIONS

Executive nominations confirmed by the Senate April 20, 1994:

EXECUTIVE OFFICE OF THE PRESIDENT

WILLIAM BOOTH GARDNER, OF WASHINGTON, TO BE DEPUTY UNITED STATES TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR.

DEPARTMENT OF DEFENSE

SARA E. LISTER, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF THE ARMY.

GILBERT F. DECKER, OF CALIFORNIA, TO BE AN ASSISTANT SECRETARY OF THE ARMY.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF COMMERCE

RAYMOND E. VICKERY, JR., OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF COMMERCE.